

**MINUTES
URBAN COUNTY PLANNING COMMISSION
SUBDIVISION & ZONING ITEMS – COMBINED MEETING**

August 22, 2013

- I. **CALL TO ORDER** – The meeting was called to order at 1:34 p.m. in the Council Chamber, 2nd Floor LFUCG Government Center, 200 East Main Street, Lexington, Kentucky.

Planning Commission members present - Mike Owens, Chair; Eunice Beatty; Will Berkley; Mike Cravens; David Drake; Karen Mundy; Carolyn Plumlee; and Bill Wilson (arrived at 2:39 PM). Carla Blanton, Patrick Brewer and Frank Penn were absent.

Planning staff members present - Chris King, Director; Bill Sallee; Barbara Rackers; Traci Wade; Tom Martin; David Jarman; Kelly Hunter; Cheryl Gallt; Denice Bullock and Stephanie Cunningham. Other staff members in attendance were: Hillard Newman, Division of Engineering; Captain Charles Bowen and Lieutenant Greg Lengal, Division of Fire and Emergency Services; Casey Kaucher, Division of Traffic Engineering and Tracy Jones, Department of Law.

II. **COMMISSION ITEM**

- A. **RESOLUTION FOR FORMER PLANNING COMMISSION MEMBER** – The Planning Commission and the staff would like to express their sincere appreciation to Dr. Lynn Roche-Phillips for her dedication and service to the Planning Commission and to the citizens of Lexington-Fayette County.

Mr. Owens said that, as everyone knows, Dr. Roche-Phillips was part of this body from January 13, 2004 to June 30, 2013; and the Commission and the staff would like to recognize Dr. Roche-Phillips for her dedication and service to the Planning Commission and the citizens of Lexington-Fayette County. He added that, with her knowledge of planning, she has been a vision for Lexington, and during her term, any decision that she made was for the good of Lexington. He said that, since she was not able to attend today's meeting, he would be personally taking her Resolution to her on behalf of the Planning Commission and the Lexington-Fayette Urban County Government. Mr. Owens said that he appreciated the time Dr. Roche-Phillips gave and wished her the best.

- III. **APPROVAL OF MINUTES** – The minutes of the June 13, 2013; June 27, 2013; July 11, 2013; July 25, 2013; and August 8, 2013, meetings would be considered by the Planning Commission at this time.

Mr. Owens reminded the Commission members that the minutes of the June 13, 2013; July 11, 2013; and August 8, 2013, meetings were previously emailed to the Commission for their review. However, there were two sets of minutes that would be removed from consideration. Mr. Sallee confirmed that the minutes from the June 27, 2013 and July 25, 2013, meetings were not distributed electronically to the Commission members and would need to be removed. Mr. Owens said that if there were no changes to the June 13, 2013; July 11, 2013; and August 8, 2013, meetings, those minutes were ready to be considered at that time.

Action - A motion was made by Mr. Cravens, seconded by Ms. Mundy and carried 7-0 (Blanton, Brewer, Penn and Wilson absent) to approve the minutes of the June 13, 2013; July 11, 2013 and August 8, 2013, meetings.

- IV. **LAND SUBDIVISION ITEMS** - The Subdivision Committee met on Thursday, August 1, 2013, at 8:30 a.m. The meeting was attended by Commission members: Mike Owens, Carolyn Plumlee, Frank Penn, Eunice Beatty and Karen Mundy. Committee members in attendance were: Hillard Newman, Division of Engineering; and Casey Kaucher, Division of Traffic Engineering. Staff members in attendance were: Bill Sallee, Tom Martin, Denice Bullock, Dave Jarman, Kelly Hunter, Scott Thompson and Cheryl Gallt, as well as Jacob Walbourn, Department of Law. The Committee made recommendations on plans as noted.

General Notes

The following automatically apply to all plans listed on this agenda unless a waiver of any specific section is granted by the Planning Commission.

1. *All preliminary and final subdivision plans are required to conform to the provisions of Article 5 of the Land Subdivision Regulations.*
2. *All development plans are required to conform to the provisions of Article 21 of the Zoning Ordinance.*

- A. **CONSENT AGENDA - NO DISCUSSION ITEMS** – Following requests for postponement or withdrawal, items requiring no discussion will be considered.

- Criteria:**
- (1) the Subdivision Committee recommendation is for approval, as listed on this agenda; and
 - (2) the Petitioner is in agreement with the Subdivision Committee recommendation and the conditions listed on the agenda; and
 - (3) no discussion of the item is desired by the Commission; and
 - (4) no person present at this meeting objects to the Commission acting on the matter without discussion; and
 - (5) the matter does not involve a waiver of the Land Subdivision Regulations.

- Requests can be made to remove items from the Consent Agenda:**
- (1) due to prior postponements and withdrawals,
 - (2) from the Planning Commission,
 - (3) from the audience, and
 - (4) from Petitioners and their representatives.

* - Denotes date by which Commission must either approve or disapprove request.

At this time, the Chair extended his apology to the audience members and to the staff on behalf of the Planning Commission and said that, with the lack of a quorum at the August 8th Planning Commission meeting, the items listed on the August 8th agenda had to be postponed to today's meeting. He thanked the Commission members who were present at that meeting, and said that the Consent Agenda could now be considered at this time. Mr. Saltee identified the following items appearing on the Consent Agenda, and oriented the Commission to the location of these items on the regular Meeting Agenda. He noted that the staff had recommended reapproval of one item, and the Subdivision Committee had recommended conditional approval of the remaining items. (A copy of the Consent Agenda is attached as an appendix to these minutes).

- a. PLAN 2013-81F: BLUEGRASS BUSINESS PARK, LOT 7 (9/29/13)* - located at 2381 Innovation Drive.
(Council District 2) **(EA Partners)**

Note: The purpose of this amendment is to add an access easement to the adjacent property.

The Subdivision Committee Recommended: **Approval**, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping.
4. Addressing Office's approval of street names and addresses.
5. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
6. Documentation of Division of Water Quality's approval of Capacity Assurance Program requirements, prior to plan certification.
7. Label 20' building line.
8. Denote access easement construction specifications to the approval of Traffic Engineering and the Division of Engineering.
9. Clarify tree protection area along Curtsinger property.

- b. PLAN 2013-82F: TUSCANY, UNIT 8-A (9/29/13)* - located at 2445 Patchen Drive.
(Council District 6) **(EA Partners)**

The Subdivision Committee Recommended: **Approval**, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection area(s) and required street tree information.
6. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
7. Documentation of Division of Water Quality's approval of Capacity Assurance Program requirements, prior to plan certification.
8. Delete conditional zoning restrictions.

- c. PLAN 2013-83F: MAHAN PROPERTY, UNIT 2-B (9/29/13)* - located at 2980 Man o' War Boulevard.
(Council District 4) **(EA Partners)**

The Subdivision Committee Recommended: **Approval**, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection area(s) and required street tree information.
6. Documentation of Division of Water Quality's approval of Capacity Assurance Program requirements, prior to plan certification.
7. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
8. Clarify tree canopy information or clarify extent of tree protection areas.
9. Clarify asterisk shown on street cross-section (min. flood protection).
10. Eliminate duplicate note about overflow swale construction.

- d. PLAN 2013-84F: MAHAN PROPERTY, UNIT 2-C (9/29/13)* - located at 2980 Man o' War Boulevard.
(Council District 4) **(EA Partners)**

The Subdivision Committee Recommended: **Approval**, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.

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2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection area(s) and required street tree information.
6. Documentation of Division of Water Quality's approval of Capacity Assurance Program requirements, prior to plan certification.
7. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
8. Correct tree canopy information or clarify tree protection areas on plan.
9. Addition of Man o' War Boulevard cross-section.

- e. PLAN 2013-64F: LAKEVIEW ESTATES, UNITS 2B & 2E (AMD) (9/1/13)* - located at 519 Laketower Drive.
(Council District 5) **(Eagle Engineering)**

Note: The purpose of this amendment is to subdivide one lot into eight lots. The Planning Commission originally approved this plan on July 11, 2013, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection area(s) and required street tree information.
6. Bike and Pedestrian Planner's approval of bike trails and pedestrian facilities.
7. Clarify notes for Lot 2 relative to acreage.
8. Addition of utility and street light easement(s) as required by the utility companies and the Urban County Traffic Engineer.
9. Terminate floodplain setback at property line.
10. Provided the Planning Commission makes a finding on the use of the proposed access easement as sole access to these lots.

Note: As part of the Planning Commission's approval on July 11th, the Commission also made a finding on the use of the proposed access easement as sole access to these lots. The findings for appropriateness of access easements as sole access for certain lots are as follows:

1. Allowing these townhouse lots to be accessed only via an access easement is appropriate for the proposed development and is consistent with the previously approved final development plan.
2. The use of the access easement will not negatively impact public health and safety, which is consistent with the intent of the Land Subdivision Regulations.

Note: The applicant is now requesting a continued discussion to further subdivide the property into a total of nine lots.

The Subdivision Committee Recommended: **Approval**, subject to the conditions listed on today's agenda, with one additional condition:

11. Documentation of Division of Water Quality's approval of Capacity Assurance Program requirements, prior to plan certification.

- f. DP 2013-62: WILLOW OAK SHOPPING CENTER (MILLPOND CENTER) (AMD 19) (9/29/13)* - located at 730 Millpond Road. (Council District 9) **(Wheat & Ladenburger)**

Note: The purpose of this amendment is to add Lots 12A and 12B and to add a pool cover to the existing in-ground pool.

The Subdivision Committee Recommended: **Approval**, subject to the following revised conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers, and floodplain information.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Greenspace Planner's approval of the treatment of greenways and greenspace.
7. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
8. Division of Waste Management's approval of refuse collection locations.
9. Denote 1-story building on Lot 12B as "existing".
10. Denote floor area of existing building on lot 12A in the site statistics.
11. Correct owners' certification to read: "We are the only owners of Lots 12A and 12B, shown hereon..."
12. Resolve maintenance of medians on Millpond Road.

* - Denotes date by which Commission must either approve or disapprove request.

- g. DP 2013-63: GESS PROPERTY, UNIT 1 (AMD) (10/29/13)* - located at 435, 481 and 529 Hays Boulevard.
(Council District 7) **(EA Partners)**

Note: This plan requires the posting of a sign and an affidavit of such. The purpose of this amendment is to add 35 parking spaces and to depict current lot lines.

The Subdivision Committee Recommended: **Approval**, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers and floodplain information.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
7. Denote construction access.
8. Denote locations of cross-sections cut through street.
9. Denote width of access at main entry point from Hays Boulevard.
10. Denote two storm sewer easements along Hays Boulevard.
11. Denote 15' sanitary sewer easement and 20' utility easement from Hays Boulevard to east end of property.
12. Provided the Planning Commission makes a finding that the plan is in compliance with the EAMP.
13. Resolve lotting information.
14. Addition of 30' utilities easement on southwest boundary of Lot 1.
15. Resolve the relationship of the building envelopes along front elevation lot lines.

- h. DP 2013-66: LAKEVIEW ESTATES, UNIT 2B, BLK I, LOT 7 & BLK K, LOT 3 (AMD) (9/29/13)* - located at 519 Laketower Drive. (Council District 5) **(Barrett Partners)**

Note: The purpose of this amendment is to add one townhouse unit and to reduce off-street parking.

The Subdivision Committee Recommended: **Approval**, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
7. Division of Waste Management's approval of refuse collection locations.
8. Documentation of Division of Water Quality's approval of Capacity Assurance Program requirements, prior to plan certification.
9. Remove building envelope conflict with 25' floodplain setback.
10. Resolve size of both 15'x15' pavilions proposed.

- i. DP 2013-67: WILHITE PARK, UNIT 1-B, SECTION 2, LOT 1 (AMD) (9/29/13)* - located at 3500 Arbor Drive.
(Council District 8) **(Banks Engineering)**

Note: The purpose of this amendment is to create 19 new single family residential lots.

The Subdivision Committee Recommended: **Approval**, subject to the following revised conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
7. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
8. Division of Waste Management's approval of refuse collection locations.
9. Documentation of Division of Water Quality's approval of Capacity Assurance Program requirements, prior to plan certification.

* - Denotes date by which Commission must either approve or disapprove request.

10. Denote that no building permit shall be issued for Lots 4 & 5 until the detention easement is reconfigured and a minor plat certified.
11. Provided that the existing conditional use permit is revised by the Board of Adjustment prior to plan certification.
12. Provided the Planning Commission makes a finding on the use of the proposed access easement.

- j. DP 2013-70: DEERFIELD SHOPPING CENTER (HAMPTON INN) (10/22/13)* - located at 1949 Nicholasville Road and 145 Collins Lane. (Council District 3) **(Vision Engineering)**

The Subdivision Committee Recommended: **Approval**, subject to the following revised conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
7. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
8. Documentation of Division of Water Quality's approval of Capacity Assurance Program requirements, prior to plan certification.
9. Division of Waste Management's approval of refuse collection locations.
10. Division of Water Quality's approval of the proposed water quality features.
11. Division of Water Quality's approval of sewer capacity prior to plan certification.
12. Resolve the encroachment into the Nicholasville Road right-of-way.
13. Delete note #10.
14. Denote access easement maintenance responsibility.
15. Denote architectural features per zoning development plan approval.
16. Denote landscaping features per zoning development plan approval.
17. Denote canopy height in feet.
18. Review by Technical Committee prior to plan certification.
19. Resolve parking area orientation/buffer relative to Nicholasville Road per zoning development plan.

- k. DP 2012-45: PIERSON & TRAPP COMPANY/DAWAHARE'S ASSOC. (GARDENSIDE SHOPPING CENTER) (AMD) (10/30/13)* - located at 1805-1865 Alexandria Drive. (Council District 11) **(Jerry Herndon)**

Note: The purpose of this amendment is to add a one-story tent, delete the outbuilding from the previous plan and to revise the parking layout. This plan was approved by the Planning Commission at its July 12, 2012, meeting, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection plan.
6. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
7. Division of Fire's approval of emergency access and fire hydrant locations.
8. Division of Waste Management's approval of refuse collection.
9. Addition of record plat designation.
10. Complete adjacent property information (Plat Cabinet "C," Slide 147 (C-147)).
11. Addition of general notes from previous plan, including note on Darien Drive (private drive).
12. Complete site statistics and verify parking provided.
13. Addition of Board of Adjustment approval information (and access restrictions).
14. Denote new vehicular use screening location on plan.

Note: The applicant now requests reapproval of the plan.

The Staff Recommends: **Reapproval**, subject to the original conditions listed on today's agenda.

In conclusion, Mr. Sallee said that the staff had previously distributed findings for PLAN 2013-64F: LAKEVIEW ESTATES, UNITS 2B & 2E (AMD), adding that this is related to the proposed access easement for this development. He then said that the staff had also received the affidavit for the required posting of a sign for DP 2013-63: GESS PROPERTY, UNIT 1 (AMD) and for DP 2013-67: WILHITE PARK, UNIT 1-B, SECTION 2, LOT 1 (AMD), noting that the documentation received for these requests appears to be in order. He further said that DP 2013-63: GESS PROPERTY, UNIT 1 (AMD) also requires the Planning Commission to make a finding that this plan does comply with the EAMP requirements, and that the staff had previously distributed that report to the Commission for their review.

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Mr. Sallee said that the items identified on the Consent Agenda could be considered for conditional approval at this time by the Commission, unless there was a request for an item to be removed from consideration by a member of the Commission or the audience to permit further discussion.

III. POSTPONEMENTS AND WITHDRAWALS – Requests for postponement and withdrawal were considered at this time.

The Chair said that he mistakenly skipped over the postponement and withdrawals requests; and before the Consent Agenda was considered, he would ask if there were any requests for postponement and withdrawal from the audience or staff to be considered at this time.

- a. DP 2013-64: KINGSTON HALL, UNIT 2 (EAST BRIDGEFORD LAND & DEV. CO.) (AMD) (10/29/13)* - located at 2356 Newtown Pike. (Council District 12) **(Vision Engineering)**

Note: This plan requires the posting of a sign and an affidavit of such. The purpose of this amendment is to revise the proposed building and parking area.

The Subdivision Committee Recommended: **Postponement.** The text amendment to permit this use and lessen off-street parking has not yet been approved by the Urban County Council.

Should this plan be approved, the following conditions should be considered:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
7. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
8. Documentation of Division of Water Quality's approval of Capacity Assurance Program requirements, prior to plan certification.
9. Division of Waste Management's approval of refuse collection locations.
10. Denote purpose of amendment.
11. Denote final record plan information on plan.
12. Denote KY Transportation Cabinet's approval of proposed right turn taper.
13. Clarify lot line and right-of-way limits on Newtown Pike frontage.
14. Delete 50' setback on Newtown Pike frontage.
15. Provided the Planning Commission makes a finding that the plan complies with the EAMP.
16. Resolve buffer (loss of tree canopy) adjacent to the Poole property.
17. Resolve location proposed for ½ cul-de-sac.

Representation – Richard Murphy, attorney, was present representing Hospice of the Bluegrass. He said that the Commission had recently approved a text amendment making a hospice a principal use for the ED zone, and that was not scheduled for final approval by the Urban County Council until August 15th. The staff has requested that this item be postponed until after the Council consideration, they are in agreement, and requested postponement of DP 2013-64: KINGSTON HALL, UNIT 2 (EAST BRIDGEFORD LAND & DEV. CO.) (AMD) to the September 12, 2013, Planning Commission meeting.

Audience Comment – The Chair asked if anyone in the audience wished to discuss this request for postponement. There was no response.

Action - A motion was made by Ms. Beatty, seconded by Ms. Plumlee and carried 7-0 (Blanton, Brewer, Penn and Wilson absent) to postpone DP 2013-64: KINGSTON HALL, UNIT 2 (EAST BRIDGEFORD LAND & DEV. CO.) (AMD) to the September 12, 2013, Planning Commission meeting.

- b. DP 2013-57: JONES SUBDIVISION (9/1/13)* - located at 1167 Appian Crossing Way. **(Rob Sims)**
(Council District 8)

Note: The Planning Commission postponed this plan at their July 11, 2013 and August 8, 2013, meetings.

The Subdivision Committee Recommended: **Postponement.** The adopted conditional zoning restricts the use of this property to a total of 17 units.

Should this plan be approved, the following conditions should be considered:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.

* - Denotes date by which Commission must either approve or disapprove request.

4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Bike & Pedestrian Planner's approval of pedestrian facilities.
7. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
8. Division of Waste Management's approval of refuse collection locations.
9. Label exterior dimensions of buildings.
10. Denote proposed building height in feet.
11. Remove group residential project references in site statistics.
12. Dimension access points proposed.
13. Dimension parking lot, aisles and spaces.
14. Denote Jones Trail as public right-of-way and revise cross-section (1/2-section).
15. Addition of north arrow.
16. Delete side and rear yard setback reference.
17. Add property owners and Planning Commission certifications per Article 21 requirements.
18. Revise note #5 to include required reference to Article 16.
19. Addition of required Engineering Manual note.
20. Clarify existing tree canopy to be preserved, including locations.
21. Denote construction entrance.
22. Reduce number of units to 17.

Staff Comments – Mr. Martin said that the staff had received an email correspondence from the applicant requesting postponement of DP 2013-57: JONES SUBDIVISION to the September 26, 2013, Planning Commission meeting.

Audience Comment – The Chair asked if anyone in the audience wished to discuss this request for postponement. There was no response.

Action - A motion was made by Ms. Plumlee, seconded by Ms. Mundy and carried 7-0 (Blanton, Brewer, Penn and Wilson absent) to postpone DP 2013-57: JONES SUBDIVISION to the September 26, 2013, Planning Commission meeting.

- c. DP 2013-61: LAKEVIEW INDUSTRIAL SUBDIVISION, UNIT 3, LOTS 1-A & 1-B (WYATT ANN PROPERTIES, LLC)
(9/25/13)* - located at 2553 and 2555 Palumbo Drive. (Council District 7) **(Summit Engineering)**

The Subdivision Committee Recommended: Postponement. There were some questions regarding the circulation pattern and width of the access for the larger vehicles.

Should this plan be approved, the following conditions should be considered:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
6. Division of Waste Management's approval of refuse collection locations.
7. Documentation of Division of Water Quality's approval of Capacity Assurance Program requirements, prior to plan certification.
8. Complete bearings and distances on Lot 2-B.
9. Remove hatching on easements other than "proposed" 25' access easement.
10. Correct Commission's certification date.
11. Denote Board of Adjustment's approval on plan (from plat), including case reference number.
12. Correct note #4 to replace "storm sewers & storm water detention with "Stormwater Management."
13. Discuss proposed circulation on the property per Technical Committee concerns.
14. Discuss stormwater detention and relevant notes from current Final Record Plat.

Staff Comments – Mr. Martin said that the staff had received an email correspondence from the applicant requesting postponement of DP 2013-61: LAKEVIEW INDUSTRIAL SUBDIVISION, UNIT 3, LOTS 1-A & 1-B (WYATT ANN PROPERTIES, LLC) to the September 12, 2013, Planning Commission meeting.

Audience Comment – The Chair asked if anyone in the audience wished to discuss this request for postponement. There was no response.

Action - A motion was made by Ms. Beatty, seconded by Mr. Cravens and carried 7-0 (Blanton, Brewer, Penn and Wilson absent) to postpone DP 2013-61: LAKEVIEW INDUSTRIAL SUBDIVISION, UNIT 3, LOTS 1-A & 1-B (WYATT ANN PROPERTIES, LLC) to the September 12, 2013, Planning Commission meeting.

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- c. **ZOTA 2012-9: AMENDMENTS TO ARTICLES 1, 8 & 12 FOR MODIFICATIONS TO THE B-1 ZONE** – petition for a Zoning Ordinance text amendment to Articles 1, 8 and 12 to make various modifications to the B-1 zone, including the addition of several new definitions.

Referral back to the Planning Commission to reconsider regulations of rehabilitation homes and tattoo parlors.

TATTOO PARLORS

ARTICLE 8: SCHEDULE OF ZONES

8-19 LEXINGTON CENTER BUSINESS (B-2B) ZONE

8-19(d) Conditional Uses

11. Tattoo parlors.

8-19(e) Prohibited Uses

13. Tattoo parlors.

REHABILITATION HOMES

ARTICLE 8: SCHEDULE OF ZONES

8-15 PROFESSIONAL OFFICE (P-1) ZONE

8-15(b) Principal Uses

~~20. Assisted living facilities and rehabilitation homes, but only when more than five hundred (500) feet from a residential zone.~~

8-15(d) Conditional Uses

~~5. Assisted living facilities and rRehabilitation homes, when located closer than five hundred (500) feet from a residential zone.~~

8-16 NEIGHBORHOOD BUSINESS (B-1) ZONE

8-16(b) Principal Uses

~~16. Rehabilitation homes, but only when more than five hundred (500) feet from a residential zone.~~

Re-number remaining sections

~~10. 11. Assisted living facilities and rRehabilitation homes, but only when more than five hundred (500) feet from a residential zone.~~

ARTICLE 12: PLANNED SHOPPING CENTER (B-6P) ZONE

12-5 12-4—CONDITIONAL USES

~~f. Assisted living facilities and rRehabilitation homes, when located closer than five hundred (500) feet from a residential zone.~~

The Zoning Committee Recommended: **Postponement**, for the reason provided by staff.

The Staff Recommends: **Postponement**, for the following reason:

1. The staff would like the opportunity to meet with the Department of Law in order to discuss the possible implications of making rehabilitation homes a conditional use in every instance.

Staff Comments – Ms. Wade said that **ZOTA 2012-9: AMENDMENTS TO ARTICLES 1, 8 & 12 FOR MODIFICATIONS TO THE B-1 ZONE** is an item being referred back to the Commission in order to reconsider the suggested changes made by the

Urban County Council. She then said that, at the August 1st Zoning Committee meeting, the staff presented a staff report on this request, and made a recommendation of postponement to allow the staff the opportunity to meet with the Department of Law regarding rehabilitation homes as conditional uses in every zone. Ms. Wade requested that the Commission postpone ZOTA 2012-9 to the September 12, 2013, Planning Commission meeting.

Audience Comment – The Chair asked if anyone in the audience wished to discuss this request for postponement. There was no response.

Action - A motion was made by Ms. Plumlee, seconded by Ms. Mundy and carried 7-0 (Blanton, Brewer, Penn and Wilson absent) to postpone ZOTA 2012-9: AMENDMENTS TO ARTICLES 1, 8 & 12 FOR MODIFICATIONS TO THE B-1 ZONE to the September 12, 2013, Planning Commission meeting.

V. LAND SUBDIVISION ITEMS (cont.)

A. CONSENT AGENDA - NO DISCUSSION ITEMS – Following requests for postponement or withdrawal, items requiring no discussion will be considered.

Criteria:

- (1) the Subdivision Committee recommendation is for approval, as listed on this agenda; and
- (2) the Petitioner is in agreement with the Subdivision Committee recommendation and the conditions listed on the agenda; and
- (3) no discussion of the item is desired by the Commission; and
- (4) no person present at this meeting objects to the Commission acting on the matter without discussion; and
- (5) the matter does not involve a waiver of the Land Subdivision Regulations.

Requests can be made to remove items from the Consent Agenda:

- (1) due to prior postponements and withdrawals,
- (2) from the Planning Commission,
- (3) from the audience, and
- (4) from Petitioners and their representatives.

The Chair returned to the Land Subdivision Items to allow the Commission to consider the Consent Agenda. He asked if DP 2013-67: WILHITE PARK, UNIT 1-B, SECTION 2, LOT 1 (AMD) had findings for the Commission to consider. Mr. Sallee replied affirmatively, and said that findings for DP 2013-67 were previously distributed to the Commission for their review, adding that this report is related to the proposed access easement for this development.

Consent Agenda Discussion – The Chair asked if anyone in the audience or on the Commission desired further discussion of any of the items listed on the Consent Agenda. Mr. Berkley said that PLAN 2013-81F: BLUEGRASS BUSINESS PARK, LOT 7 is listed on the Consent Agenda, but DP 2013-68: BLUEGRASS BUSINESS PARK, LOT 7 is not and asked if that was correct. The Chair said that the applicant had submitted a revision for DP 2013-68, which disqualified that item from being listed on the Consent Agenda.

Action - A motion was made by Ms. Mundy, seconded by Ms. Plumlee and carried 7-0 (Blanton, Brewer, Penn and Wilson absent) to approve the items listed on the Consent Agenda. This includes the Planning Commission making the findings for DP 2013-67: WILHITE PARK, UNIT 1-B, SECTION 2, LOT 1 (AMD) and that DP 2012-89: NEWMARKET PROPERTY, PHASE I, UNIT 10; and DP 2013-14: GESS PROPERTY, UNIT 2 (AMD) complies with the provisions of the EAMP.

B. DISCUSSION ITEMS – Following requests for postponement, withdrawal and no discussion items, the remaining items will be considered.

The procedure for these hearings is as follows:

- Staff Report(s), including subcommittee reports (30 minute maximum)
- Petitioner's report(s) (30 minute maximum)
- Citizen Comments
 - (a) proponents (10 minute maximum OR 3 minutes each)
 - (b) objectors (30 minute maximum OR 3 minutes each)
- Rebuttal & Closing Statements
 - (a) petitioner's comments (5 minute maximum)
 - (b) citizen objectors (5 minute maximum)
 - (c) staff comments (5 minute maximum)
- Commission discusses and/or votes on the plan.

Note: Requests for additional time, stating the basis for the request, must be submitted to the staff no later than two days prior to the meeting. The Chair will announce his/her decision at the outset of the hearing.

1. **FINAL SUBDIVISION PLANS**

- a. PLAN 2013-78F: DISTILLERY DISTRICT WEST (AMD) (9/19/13)* - located at 1200 Manchester Street.
(Council District 2) **(2020 Land Surveying)**

Note: The Planning Commission postponed this plan at their July 11, 2013 and July 25, 2013, meetings. The purpose of this amendment is to subdivide one lot into two lots.

The Subdivision Committee Recommended: **Postponement.** There are concerns with the sanitary sewer service to the property.

Should this plan be approved, the following conditions should be considered:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection area(s).
6. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
7. Addition of utility and street light easement(s) as required by the utility companies and the Urban County Traffic Engineer.
8. Denote location of cross-section through Manchester Street.
9. Denote "amended" in title block.
10. Denote acreage on lots.
11. Correct date of plat preparation.
12. Clarify right-of-way dedication with a solid line.
13. Provided the Planning Commission grants a waiver to Article 4-7(d)(1) regarding substantial completion of infrastructure.
14. Review by Technical Committee prior to plan certification.

Staff Presentation – Directing the Commission's attention to the final record plat on the agenda, Mr. Jarman said that the Planning Commission postponed this plan at their July 11, 2013 and July 25, 2013, meetings. He directed the Commission's attention to the rendering of the plat and briefly oriented them to the location of the subject property, adding that it is located at 1200 Manchester Street. He explained that the subject property is located between the CSX railroad overpass and South Forbes Road, noted that the purpose of the amendment is to subdivide one lot into two lots.

Mr. Jarman said that the Subdivision Committee reviewed the applicant's request and recommended postponement due to the concerns with the sanitary sewer service to the property. He then said that, since the August 1st Subdivision Committee meeting, the applicant has submitted a revised plan to the staff that addressed a few of the issues previously identified. The staff has also met with the applicant and the Divisions of Engineering and Water Quality to resolve the appropriate provision of sanitary sewer service to the proposed lots. He said that, based on that meeting, the staff can now offer a revised recommendation for this plat.

The Staff recommends **Approval**, subject to the following revised conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers, their maintenance responsibilities and floodplain information.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection area(s).
6. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
7. Addition of utility and street light easement(s) as required by the utility companies and the Urban County Traffic Engineer.
8. Denote location of cross-section through Manchester Street.
- ~~9. Denote "amended" in title block.~~
- ~~9.~~ 10. Denote acreage on lots.
- ~~11. Correct date of plat preparation.~~
- ~~12. Clarify right-of-way dedication with a solid line.~~
- ~~10.~~ 13. Provided the Planning Commission grants a waiver to Article 4-7(d)(1) the Land Subdivision Regulations regarding substantial completion of infrastructure.
- ~~14. Review by Technical Committee prior to plan certification.~~
- ~~11.~~ 12. Denote reciprocal parking and access for all lots.
- ~~12.~~ Addition of access easement to Lot 4, if necessary.

* - Denotes date by which Commission must either approve or disapprove request.

Mr. Jarman briefly explained that conditions #1 through #7 are standard sign-off requirements from the different divisions of the LFUCG, and the remaining conditions are "clean-up" items. He added that there is a waiver associated with this request, noting that Mr. Martin would be presenting that staff report.

Planning Commission Questions – Mr. Drake asked for clarification about the requirements for an access easement to Lot 4. Mr. Jarman explained that Lot 4 may require an access easement; but if a note were to be added on the plan regarding the reciprocal parking and access for all the lots, then access would be covered for Lot 4.

The Chair said that on the staff's revised recommendations the condition pertaining to the review by the Technical Committee had been removed, and asked if this plan had already been reviewed by that Committee. Mr. Jarman replied affirmatively.

Ms. Plumlee said that the phrase "their maintenance responsibilities" had been added to condition #1, and asked what those responsibilities are and if these would carry forward on the deed. Mr. Martin explained that the new language on condition #1 is related to a request made by the Planning Commission when the original lot was split. He said that the maintenance responsibility was placed on the original plat, as part of a condition, which required a note to be added to that plat. That same language is being used for this request.

Waiver Report - Mr. Martin said that the applicant is requesting a waiver similar to what the Planning Commission had granted on the original plat. He directed the Commission's attention to the rendering and briefly reoriented them to the subject property. He said that the Planning Commission previously approved a request to subdivide the original property into two lots, and granted a waiver to Article 4-7(d)(1) of the Land Subdivision Regulations. He said that the applicant is now requesting to amend the plat to further subdivide the property. He noted that the lotting shown on the rendering is the key issue to the waiver request.

Mr. Martin said that the applicant is requesting a waiver to Article 4-7(d)(1) - Certificate of Substantial Completion, and this would allow certification of the final record plat prior to the work of the proposed public improvements. He said that the waiver would also allow the applicant to proceed with the selling of the property to allow the financing to take place.

Mr. Martin said that, since this area is entirely within the FEMA-100 year regulatory floodplain, the issue with the request is the sanitary sewers. He then said that the elevation of the subject property is lower than the sanitary sewer trunk line; and in past discussions, a private pump station and the maintenance of those lines were previously discussed. Mr. Martin said that the applicant is requesting the same type of waiver as before, since they are proposing to provide private sewer grinder pumps for each of the buildings, which would include each lot having its own private force main that will be connected to the city's trunk line. He explained that there are two existing sanitary sewer trunk lines available to serve the property. One is across the R.J. Corman Railroad track and is at a higher elevation than the subject property; and the other is east of the Pepper Distillery Building. He said that the staff had met with the applicant, as well as the Divisions of Engineering and Water Quality, and they had discussed the sanitary sewer infrastructure issues relative to this waiver request. It was determined that the applicant's proposal to connect to the existing sanitary sewer trunk line east of the Pepper Distillery Building was the appropriate solution. He added that this would be a private system that would be maintained by the owners of those buildings.

Mr. Martin said that, along with the waiver request to Article 4-7(d)(1), the staff is also including Article 6-6(d), which states that every lot shall be served by a gravity sewer lateral. This cannot be done in this case. He directed the Commission's attention to the staff exhibit previously distributed, and said that the Code of Ordinances, Article 5, Sec. 16-41(m) states: "*Where gravity sewer service as defined in (k)(2) above cannot feasibly be provided, the government may require the installation of a sewage pump. In such instances, the installation and maintenance of the sewage pump shall be the responsibility of the property owner.*" He said that this is consistent with what the applicant is requesting.

Mr. Martin then said that the staff is recommending approval of the requested waiver, for the following reasons:

1. Granting the waivers is consistent with Article 1-5(c) of the Land Subdivision Regulations that encourages infill and redevelopment facilitation.
2. Not granting the waivers constitutes a hardship for the applicant due to the significant site constraints including the FEMA floodplain, the elevation and location of the public sewer line and the configuration of the built environment.
3. Granting the waivers will not adversely affect public health and safety, as the required sanitary sewer will be constructed prior to occupancy and the public street improvements will be constructed in conjunction with the rest of the street improvements as required by the approved development plan. Approval of that construction will require that this new construction will be privately maintained.

This recommendation is made subject to the following requirements:

* - Denotes date by which Commission must either approve or disapprove request.

Denote: No Zoning Compliance Permit and no Certificate of Occupancy shall be issued for Lots 1, 2, 3 or 4 until sanitary sewer service is provided to the site, meeting the requirements of the Kentucky State Plumbing Code and accepted by the Division of Engineering and the Division of Water Quality.

Planning Commission Questions – Mr. Berkley said that, at the Subdivision Committee meeting, the use of grinders was discussed, as well as service being provided to each lot. He asked if condition #7 would cover any necessary easements that would be required between the pump stations and these lots. Mr. Martin replied no, and said that that would have to be added. He then said that the applicant did provide the staff documentation addressing that issue, adding that the staff wanted to make sure that the service to each of the lots is adequate, while it is still under review, to make sure that there is room for each trunk line; as well as adequate room should there be any necessary work or maintenance that is needed without disturbing the services to the other buildings. Mr. Martin said that the Division of Water Quality did send the staff an email accepting the applicant's conceptual design with certain requirements being imposed.

Mr. Berkley said that eventually each of these lots will be sold, and asked how these can lots be sold without the easements being in place. Mr. Martin said that the sewer line easements would need to be in place prior to the lots being sold. Mr. Berkley then asked what the Planning Commission is being asked to approve. Mr. Martin said that the Planning Commission is being asked to approve the final record plat, as well as the requested waiver. He then said that the necessary easements would be added to the plan. Mr. Berkley asked if the approval will be for the whole property, to which Mr. Martin replied affirmatively, adding that the applicant has recorded a legal document among various entities; and their proposal is being reviewed to ensure that their design is adequate for this site.

Mr. Berkley said that he is concerned with these types of issues being missed on the plats since it could create a problem down the road with mortgages, and asked why the easements are not already shown on the plat. He asked if the building layout is set. Mr. Martin said that the building layout is set and the lots reflect that layout. The applicant has not confirmed where every trunk line will be located at this time, but those locations will need to be reviewed and approved by the Division of Water Quality. Mr. Sallee clarified that condition #7 would not cover the approval of the easements; however, condition #1 was intended to do so. The Chair added that the Division of Engineering would be a signoff on this request.

Representation – Justin Drury, 2020 Land Surveying, was present, representing the applicant. He said that the plat does denote the parking agreement, which has been filed in the deed, for the construction and maintenance of egress and ingress. He then said that the plat does graphically depict the proposed location of the trunk line that would be servicing these lots created by this plat. He added that they are in agreement with the staff's revised recommendations and requested approval.

Planning Commission Questions – Mr. Berkley said that it was indicated that the proposed trunk line is being shown on the plat; but one of the issues is the trunk lines not being shown, and asked for clarification as to why the trunk lines cannot be shown prior to the Commission's consideration. Mr. Drury said that they are showing a proposed layout for the trunk line, and they are requesting the waiver for the substantial completion in order to have plat recorded. He then said that they have submitted a report to the Division of Water Quality concerning the size and the physical location on the ground. As it is proposed, it should be very close to the easement; but at this time, those lines are not in the ground.

Mr. Berkley asked if this design would be somewhat binding. Mr. Drury responded that he believed it would be. Mr. Martin said that the reason the applicant is requesting the waiver is not to fully design or construct the sewer lines. He then said that the applicant needs to record the plats to move forward, but the buildings will not be occupied until the design is approved and constructed. He explained that the discussion concerning the 15' easement was whether or not the size was adequate for four trunk lines, and that issue would be reviewed and approved by the Division of Water Quality.

Audience Comment – The Chair asked if anyone in the audience wished to discuss this request. There was no response.

Action - A motion was made by Mr. Cravens, seconded by Ms. Mundy, and carried 7-0 (Blanton, Brewer, Penn and Wilson absent) to approve PLAN 2013-78F: DISTILLERY DISTRICT WEST (AMD), including granting the waiver as presented by the staff.

2. DEVELOPMENT PLANS

- a. DP 2013-65: DENTON FARM (ELLERSLIE AT DELONG) (AMD) (10/29/13)* - located at 3950 Richmond Road.
(Council District 7) **(Barrett Partners)**

Note: This plan requires the posting of a sign and an affidavit of such. The purpose of this amendment is to add Phase 2 condominium and townhome developments and to revise single family residential lots.

* - Denotes date by which Commission must either approve or disapprove request.

The Subdivision Committee Recommended: **Approval**, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
7. Division of Waste Management's approval of refuse collection locations.
8. Documentation of Division of Water Quality's approval of Capacity Assurance Program requirements, prior to plan certification.
9. Improve text legibility.
10. Clarify site statistics on Phase 2 to state 124 units.
11. Provided the Planning Commission makes a finding that the plan complies with the EAMP.
12. Document compliance with open space in the Special Design Area, prior to plan certification.

Staff Presentation – Directing the Commission's attention to DP 2013-65: DENTON FARM (ELLERSLIE AT DELONG) (AMD) on the agenda, Mr. Martin oriented them to the staff's development plan rendering for this property. He briefly explained the overall area, the street system and the location of the proposed request, which is at 3950 Richmond Road. He then said that the subject property backs up to the Old Richmond Road and Athens-Boonesboro Road, directly across from Jacobson Park.

Mr. Martin explained that the purpose of this development plan amendment is to add condominium and townhome units, as well as the associated parking for the Phase II area. He said that there is a Special Design Area on a portion of the property, as well as a detention basin between the condominium units and the townhome units. He then said that the primary entrance into this development is located off Ellerslie Park Boulevard with an emergency access designated as well. He further explained that Phase I of this development currently has townhouses being constructed at the corner of Ellerslie Park Boulevard and Ormesby Place, and there are slight revisions to the single family lots throughout Phase I and Phase III. He said that the subject property is conditionally zoned for a maximum of 495 dwelling units, whether those dwelling units are townhouses, condominiums or single family lots. With this request, the applicant is proposing 25 townhouses, 99 condominiums and is also tweaking the single family lot area.

Mr. Martin directed the Commission's attention to the staff's revised conditions (previously distributed), and said that the Subdivision Committee had recommended approval of this request, subject to the conditions listed on today's agenda. Since that time, the staff had received a revised submission for this plan, which addressed some of the conditions previously identified by the Subdivision Committee. The staff can now offer the following revised conditions to the Commission for consideration:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
7. Division of Waste Management's approval of refuse collection locations.
8. Documentation of Division of Water Quality's approval of Capacity Assurance Program requirements, prior to plan certification.
9. Improve text legibility.
10. Clarify site statistics, berms and/or landscaping on Phase 2 to state 124 units comply with Article 23A-2(r) of the Zoning Ordinance.
11. Provided the Planning Commission makes a finding that the plan complies with the EAMP.
12. Document compliance with open space in the Special Design Area, prior to plan certification.
13. Extend berm and planting along Tatton Park frontage.

Mr. Martin briefly explained that conditions #1 through #8 are standard sign-off requirements from the different divisions of the LFUCG, and the remaining conditions are "clean-up" items. He directed the Commission's attention to the staff exhibit, and explained that the applicant is proposing a berm and landscaping along Ellerslie Park Boulevard down to Tatton Park. The staff is requesting that the applicant clarify that this berm and/or landscaping will comply with requirements of Art. 23A-2(r)(1) of the Zoning Ordinance (condition #10). He then said that the staff also believes that it is important to extend this berm and planting material along the Tatton Park frontage (condition #13). Mr. Martin said that there is a provision in Art. 23A-2(r) of the Zoning Ordinance that allows the Commission to impose a more restrictive buffer on a development, if they believe it is

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necessary. He then said that this provision can require a buffer yard of six (6) feet in width, with one tree for every 40' linear feet, as well as a 4-foot high hedge, fence, earth mound or a combination of these features. He said that this provision is based upon the density of a development, and it was placed in the Expansion Area zoning to encourage a diversity of housing types within a single development. He added that this type of buffering is not required when there are single family detached houses mixed with duplexes, tri-plexes or four-plexes; however, when there is a greater density, such as apartments or condominiums, then the landscape buffer is required. He added that since the apartment and condominium units are a greater density than the surrounding areas, the Commission may impose additional landscaping buffers. Mr. Martin said that, as part of the "clean-up" conditions, the applicant will need to document their compliance with the open space requirement in the Special Design Area, prior to plan certification.

Mr. Martin then said that, on the approved development plan, a note was presented showing a very specific landscaping detail that outlined the type of planting material to be used to help buffer certain areas. However, on the amended development plan, that landscaping detail was removed from the plan. The applicant indicated that they wanted to amend that note in order to replace the suggested hedge with the existing berm. The staff wanted to make sure that this issue had been fully vetted with the neighborhood residents, and recommended that the applicant add the landscaping note back on the development plan.

Mr. Martin directed the Commission's attention to the staff's EAMP Compliance Report that had been previously distributed, and explained that the Planning Commission must make a finding that this plan does comply with certain components of the Expansion Area Master Plan. He then explained that there are various types of features that must be built in the Expansion Area, such as major collector streets, sewer trunk lines and so forth; but for this particular case, the infrastructure is complete, and there are no major highways or pump stations required for this area. There is an existing stormwater system, as well as detention basins, throughout the development; and as for the Community Design Element, the applicant has addressed this component with the use of the terrain and landscape buffering.

Mr. Martin said that the staff believes that the amended Final Development Plan for the Denton Farm Property, Phase 2, is in agreement with the Future Land Use, Community Design, and Infrastructure elements of the Expansion Area Master Plan for the following reasons:

1. The density of the proposed development meets the required density in the approved EAR-1 zone. Although at the upper-most end of the allowable density, the apartment-condominiums and the single family townhouses proposed are in compliance with the future land use element of the EAMP.
2. The development of Phase 2 should result in the creation of more housing diversity in the distinct neighborhood now known and marketed as "Ellerslie at Delong."
3. The development plan does not affect the overall common open space areas or Conservation District, which provide the community with neighborhood focus areas. A pool and clubhouse area is proposed to be provided for the development in the Phase 2 area.
4. All of the proposed infrastructure elements required by the EAMP have been built or will be improved as part of the overall development of the Phase 2 area.

Planning Commission Questions – The Chair noted that condition #13 references the Tatton Park frontage and asked where this street is located, as well as what the applicant had proposed regarding the landscape buffer versus what was recognized and approved by the Planning Commission. Mr. Martin pointed out the location of Tatton Park on the development plan rendering, and said that it is the staff's understanding that the landscape buffer has not been completely installed; but the applicant could further elaborate on that question.

Representation – Tony Barrett, Barrett Partners, was present, representing the applicant. He said that the applicant is in agreement with the revised recommendations, but they would like to clarify some of the matters that were discussed at today's meeting. He noted that this plan does require the posting of a sign and an affidavit, and they have submitted two postings to the staff - one for the August 8th meeting and the other for today's meeting.

Mr. Barrett said that, since the filing of this request, he and Mr. Barlow have had conversations with the neighborhood, primarily with Mr. Albert Kelley, regarding several issues in this development. He then said that one of the issues was the street trees that were not initially planted; however, since that time, those trees have been installed. He added that an amendment to the by-laws was made to ensure that as the builders transfer the houses to the buyers, the HOA has the ability to capture that money to plant the street trees if those trees have not been installed. He said that that language is also stipulated in the contract for the buyer of the lot. However, many of the home builders have not complied with that responsibility. It is his understanding that the street trees in this development have been brought up to date.

Mr. Barrett said that, with regard to the berms, hedge and columns, in 2005, an amendment was approved by the Commission; and based upon the discussions at the Subdivision Committee meeting, there was some confusion as to what part Mr. Barlow would play in installing the required landscaping. He said that Mr. Barlow

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was not trying to avoid his responsibility; it was just a misunderstanding on his behalf that the landscaping requirement was still a part of that plan. Mr. Barrett said that they would like to retain the existing berms, as they are constructed, in place of the hedge and columns. He explained that, to construct the columns, the irrigation line and the topsoil would need to be removed and the land graded out to provide a structural column and to align the hedge. He added that they are requesting that the Commission allow the existing berms to be retained and the hedge and columns to be omitted.

Mr. Barrett said that Ellerslie at Delong is an attractive community, and presented several photographs to the Commission, giving a brief description of each (a copy of the mentioned items is attached as an appendix to these minutes). He said that Mr. Barlow has made a significant investment in this residential community, and he will continue to do so for the remainder of the project. He then said that they had met with Mr. Kelley on August 21st, and they had discussed and agreed on three elements of this plan. Mr. Barrett explained that one of the three elements dealt with the corner lot at Tatton Park at the entrance of the townhome section. He said that the corner townhouse would be omitted to allow extra landscaping to be installed; and, in turn, they will reconfigure the lots to add one single family detached lot along Weston Park. This change will still maintain the 495 lot limit that is required by the conditional zoning restrictions. He said that, to ensure that Mr. Barlow will provide the same quality of landscaping that has been planted on this development, he has made a commitment to this community to install \$15,000 of additional landscaping along the condominium side.

Mr. Barrett said that, in reference to condition #13, there is already a significant buffer built into the infrastructure of this development, but they are agreeable to adding the berm and landscape buffer along Ellerslie Park Boulevard and Tatton Park. He added that they do not believe that the initial intent of this type of landscaping was meant to be across the street, considering there are medians in the center of the road; but they are agreeable to that recommendation, and requested approval.

Note: Mr. Wilson arrived at this time.

Audience Comment – The Chair asked if anyone in the audience wished to discuss this request. Albert Kelley, residing at 204 Ellerslie Park Boulevard, was present. He indicated that he is the President of the Neighborhood Association and the Homeowners Association for the Ellerslie Park community. He added that he had submitted a petition with 29 homeowner signatures, who are in support of the presentation and the recommendations that will be mentioned.

Mr. Kelley said that it was previously noted that Mr. Barlow had installed the required street trees, but that statement was incorrect. He said that he would like to clarify that the required street trees are not in place in areas where there are attached housing units. He added that the berms are not landscaped; and the majority of the photographs that were presented are HOA properties, not properties that are maintained by a home owner. He added that the landscaping is being maintained through the HOA dues and not at the expense of the developer. He said that some of the homeowners are paying over \$1,000 per year to the HOA for the maintenance and repair of the landscaping. He then said that traditionally the developer is responsible for the maintenance and repair at their own expense, until the HOA takes responsibility. He added that the homeowners in this development are paying for the installation, maintenance and repair every year through the HOA dues.

Mr. Kelley presented a PowerPoint presentation to the Commission and gave a brief description of each slide (a copy of the mentioned items is attached as an appendix to these minutes). He said that the EAMP Guidelines have already established non-traditional zoning to facilitate social, cultural and economic diversity. This results in significant flexibility in housing types and the densities. He said that this area could be called a “planning experiment” because it is unique to the community, and Lexington is on the forefront of smart growth with mixed housing in a diverse neighborhood. Mr. Kelley said that this development allows for a mixture of housing types, densities and sizes; but the interfaces between the housing types must be designed to ensure compatibility and marketplace success. This is accomplished by the landscape buffers between the adjacent housing types. He said that when low density single family dwellings abut a high density multi-family dwelling, there should be a wide and heavily landscaped area between these two. He then said that when low density single family detached dwellings abut a low density area, the buffers are substantially smaller.

Mr. Kelley said that Ellerslie at Delong is a spectacular success, and it is one of the area's most socially, culturally and economically diverse developments. He then said that this proposal will be a turning point for this development because right now the diversity includes the housing types, the size of the houses; and the families that are ethnically and religiously different. It's a wonderful success. Mr. Kelley said that right now there is low density attached single family and detached dwelling units that have incomplete landscape buffers. Some of these homes have been occupied for over six years; and when reviewing the aerial photograph, it is clear that the landscape buffer between the housing types is not present. He then said that the berms are in place, but there is no landscaping.

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Mr. Kelley said that the applicant is proposing to have 5 buildings with 124 units and 211 parking spaces. Each of these five buildings will be equal to the length and width of four house lots and 35 feet tall. He then said that these are substantial structures for this area, and added that the buildings will be the largest visual element in this subdivision. He then said that, with the apartments being located at the entrance of the neighborhood, it establishes the tone and the potential market for the subdivision in perpetuity. The homeowners that are abutting this proposal made large investments when buying their homes.

Mr. Kelley said that the proposed setback along Ellerslie Park Boulevard and Tatton Park is not the same distance for the townhouses as the single family houses on the opposite side. When looking at the rendering, the townhouses show the setback crossing the corner of that building. He would appreciate the opportunity for the corner lot to be removed from the plan. The setback sets the tone for this area, as well as the market in perpetuity. Homeowners are making a substantial investment when they purchase homes abutting this property, and the proposed development is in complete violation of the EAMP recommendation. This proposal does not have adequate landscape buffers, and the EAMP calls for the buffer yard to be wide and heavily landscaped between two types of densities and housing. Mr. Kelley said that the applicant's proposal does not include sufficient details that are needed, and there is insufficient space to provide a wide and heavily landscaped buffer yard between the two densities. The interface between the housing types and intensities must be designed to ensure compatibility.

Mr. Kelley said that he would like to compliment the applicant on his attention to detail, the architecture of the homes, the flow of the neighborhood and the fact that he provides high quality homes. The residents of this area want him to keep that success going. He said that they want the applicant to reduce the parking spaces from 211 to 147, and explore the idea of an underground parking area for the apartment buildings. He then said that they want to further reduce the number of townhomes and apartments; and, in exchange, add more single family house lots in Phase 4. Based upon the need of the marketplace, this development has already established a precedent by subdividing the larger lots into smaller single family homes; and it would be suitable to reduce the number of townhomes and apartment buildings to add more single family lots to Phase 4. The development will still retain the 495 units, while providing the diversity that is needed. This would also cut down on the massive buildings at the entrance on Richmond Road.

Mr. Kelley said that they believe it is impossible to make a decision on this type of proposal when the rendering is on paper alone, especially with the topography of the area. He then said that a 3-D rendering needs to be submitted to show the architectural details, the building materials, the roof lines and so forth. He added that the parking lots need to be below grade and behind the landscape buffers to minimize the "ocean of asphalt and cars" that will be seen from the streets. Also the applicant needs to use the "dark sky" movement to help minimize the lights from the parking lots and the building. The lights will focus downward as opposed to shining upward, which will help with light pollution and glare on the nearby houses.

Mr. Kelley closed his presentation, and said that they recommend that a 3-D presentation of this project be submitted to illustrate the building's architecture. He then said that the rendering should be to scale and should show the relationship of the buildings to the abutting homes. The 3-D view should show how this project fits with the topography, as well as show the detail of the landscape plan. He said that this project should be in compliance with the spirit and intention of the Expansion Area Master Plan and the buffering of uses in the Zoning Ordinance. Mr. Kelley said that the deficiency with the existing development needs to be corrected. He then said that the applicant should submit and execute a landscape buffer plan for the areas between the existing townhomes and the single family homes that fully complies with Section 23A-2(r) of the Zoning Ordinance. He noted that the existing berms do not comply with the Ordinance; and as for the street trees, the applicant had planted those just prior to today's meeting. He noted that, six years ago, occupancy permits for these houses were issued without the street trees being planted, and the history of this development is unsettling. The Homeowners Association dues are being used to maintain the existing landscaping, as well as the street trees in this area; and he asked what will happen when this large piece of development is built with no landscaping or buffer. The homeowners association will be who salvages the development to retain the quality neighborhood. Mr. Kelley said that, after years of pressure, the homeowners had to fight for what is there through the HOA dues. The residents believe this will be a fabulous opportunity to continue a diverse community; but they are afraid that they will have to mitigate what will be going into the ground, should the Commission approve their request. He said that there are some homeowners who have or will be placing their homes on the market because of the major concerns with the potential impact on the neighborhood. He added that he encourages the Commission to be careful and be thorough in their decision because the plan is approved, then it is done. Mr. Kelley said that this is one of most significant pieces of property left in the community and it has been designed very well up until this point.

Planning Commission Questions – Ms. Mundy asked if Mr. Kelley had spoken with the developer. Mr. Kelley replied affirmatively and said that they have a constructive, proactive dialogue on a regular basis, and they have a respectful disagreement of what constitutes attention to detail and quality.

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Audience Comment - James Todd, residing at 256 Somersly Place, was present, and he said that he has been a resident of this community since 2007. He said that the Commission has not given final approval for the proposed amendment. He asked, when there is a change, such as subdividing 9 single family lots into 10 single, if the developer is allowed to build on any of those lots. The Chair responded by saying that the applicant would need to submit a revised development plan showing their proposal, at which time the Planning Commission must approve the amended development plan prior to it going forward. Mr. Todd indicated that very near to his property there is construction on two of the ten lots, near 3805 Somersly Cove.

Mr. Todd said that, for years they have been arguing the issue of the street trees; and he noted that in September, 2011, a neighborhood association meeting was held. At that time, there were 24 owner-occupied residences live in this community that did not have the street trees planted. He then said that 11 of these lots were built by Mr. Barlow, and he is glad to see that the street trees are now planted. He added that there is a grass median in Somersly Cove that does not have any type of landscaping. He said that the photographs presented to the Commission are not the reality of this neighborhood; and in the past, he had to agree to use his own water to water the sod that was placed by Mr. Barlow. He added that, in the week prior to today's meeting, there were indications that street trees were getting ready to be planted; but as of today, those trees are not present.

Mr. Todd said that the people living in this area want a quality place to live, and they want the developer to do what he has agreed in writing to do. He then said that there have been deficiencies in the past that they have argued about for many years. He added that they want the same vision that Mr. Barlow had in making this development a pleasant place to live. The neighbors want Mr. Barlow to comply with his own agreement, as well as the agreement that was made with the Planning Commission's approval. He said that they do not want see a massive parking lot when driving through the entrance. He then said that there needs to be a landscape buffer along the left side of the street to shield that development. He added that they are not against the townhouse development or the condominium units, because those were planned from the beginning; but they want Mr. Barlow to continue to develop this community as he had intended from the beginning.

Planning Commission Questions – Mr. Drake asked if the Commission has enforcement powers or if there is some other way to enforce any prior agreements that were made between the homeowners and the developer. Mr. King said that there are different aspects that are enforced by the government agencies; and even within the life of this subdivision, enforcement has shifted in terms of zoning items. He then said that prior to January, 2012, such conditions on plats that related to zoning issues were handled by the Division of Building Inspection, as part of their duties. On January 1, 2012, those duties were transferred to the Division of Planning and now the Division of Planning has the authority to move into authority in some of those areas. He added that, in terms of new conditions and things of that nature, the Division of Planning will be ensuring that there is a new zoning compliance permit for new construction. Mr. King said that the Division of Planning can and will condition some of these special conditions to that, and he and others believe that those conditions will be followed up on more diligently under the new arrangement versus the old arrangement.

Mr. King clarified that the failure of planting street trees did not just occur in the Ellerslie neighborhood; but, rather, it has occurred in many developments over the past few years. Because of this issue, the laws have been changed. He then said that the law is not retroactive to developments that were previously approved; but to ensure that the street trees are planted, a bond or a letter of credit is required to allow the city to bring that development in to compliance.

Mr. King said that, by law, the government does not have any control over the architectural design of a building; and as for architectural restrictions that is voluntarily on the part of the applicant. He then said that there are times when the Commission does see a detailed rendering in conjunction with a proposal, but that is not typical since the Commission has no control over that type of submittal.

Mr. Sallee said that, from the example Mr. Todd offered, it is possible in a string of 9 lots that the lots on the edge may not be very much different from their original geometry in a conversion from 9 to 10 lots. He then said that is theoretically possible for those lots to obtain a building permit with the side yard only changing by a few feet. The lots in the middle of that string would probably be more susceptible to change, and it would not be deemed very prudent to obtain a building permit if those lots were going to significantly change in the future. The other complicating factor can sometimes involve easements, because many of the side yard property lines have utility or street light easements; and if there is a reconfiguration of a lot, those easements may end up being in the center of the new lot. With the example that was given by Mr. Todd, by taking 9 lots and make 10 lots, theoretically, the edge of where those changes are occurring may not be relevant to the point to where there may be a delay in building on those individual lots.

Mr. King said that a private deed covenant may have been negotiated within this development; and as the Commission is aware, the Planning Commission or the LFUCG does not, and can not, enforce a deed restriction. He then said that, in reference to Mr. Todd's discussion concerning the median, there is no requirement to have a median

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landscaped by government rules. Street trees only apply along the perimeter of a street, and any other plantings are voluntary.

Representation's Rebuttal – Mr. Barrett indicated that they were under the impression that Mr. Kelley's concerns with this development had been addressed at their August 21st meeting, and that they did not realize that he still had a number of issues pertaining to this request. He said that he can not agree to the comments made regarding the building line setback because the setback is significantly further back for the condominiums versus the setback for the single family homes. He then said that the parking lot will be significantly landscaped and there will be large medians separating the landscape areas. He added that they have made a commitment to provide berms around the perimeter of this proposed development.

Mr. Barrett explained that this proposal is planned to have 99 2-bedroom units (or 198 bedrooms), with one parking space per bedroom. This result in 200 parking spaces, or .9 per bedroom. He then said that they are proposing 211 parking spaces, and they believe this number is not out of line with this proposal. He noted that the EAMP parking requirement is less than the requirement of the R-3 zone, which is why the parking is lower than what the Commission is used to seeing. He said that more single family detached, versus a variety of housing types would be in conflict with the intent of the Expansion Area Master Plan of having a diverse development. As for the concerns with the light spillage, he said that there is an ordinance they must comply with to ensure that the light stays on their property. He then said that the typical practice is to use a shoebox design, which directs the light downward on the parking lot, so they believe the issue with the dark skies should not be a concern.

Mr. Barrett said that they are in disagreement with the idea of the homeowners association "salvaging" this community, and it's a gross misunderstanding of the HOA's role. He then said that the developer has done a fantastic job in developing this neighborhood. He added that there are significant improvements to the infrastructure, including the medians, street trees and the fountain, as well as the entrance feature for this community; and they have provided the open space as it was proposed on the development plan. He said that the HOA dues are for the continued maintenance and improvements of the investment that the developer has created, and that is true for every neighborhood that has an existing homeowners association. He said that this is not a salvage job, but rather it is a fantastic development. Mr. Barrett said that Mr. Kelley opened his presentation by saying that this development is a huge success, but then he spoke to all of the failures of this development, which does not make sense.

Mr. Barrett said that Mr. Todd's comment regarding the lots was addressed by Mr. Sallee, and that is exactly what has happened. He then said that there is a house built on the last lot and it does meet the setback requirements to further subdivide that lot. As for the issue with the grassy medians, that issue was addressed by Mr. King, and he added that street trees are not required in the median nor are they required in the townhouse development. Mr. Barrett said that they are agreeable to the staff's recommendation, and requested approval.

Planning Commission Questions – The Chair confirmed that the mentioned agreement would delete one townhouse and add one single family house. Mr. Barrett replied affirmatively. The Chair asked if that agreement had been reflected on the submitted development plan rendering. Mr. Barrett said that that change was not shown on the staff's rendering, but it was shown on the applicant's exhibit. The Chair said that that change will be reflected as part of the record for this meeting. Mr. Barrett said that that was correct. The Chair asked the staff if the verbal confirmation of the agreement, and what was attached, would be sufficient as part of the revision of this development plan. Mr. King replied affirmatively, and said that the staff will make sure that is a condition that is incorporated into the plan documents prior to this plan being certified.

Mr. Cravens asked, as far as reconfiguring the 9 lots, if this has been done on other streets in this development. Mr. Martin replied yes and said that there have been slight reconfigurations in the past. Mr. Cravens said that it seemed that the lots near the townhouses had been reconfigured in increments of 2 feet in the past. Mr. Martin replied that there were some lots that had been reconfigured.

Mr. Cravens then asked if the burning bushes were noted on the plan. Mr. Martin said that there is a note for the landscaping detail on the plan that the Commission had previously approved. Mr. Cravens asked what type of plant material is listed in the landscaping detail note. Mr. Martin said that the landscaping detail does list vegetative types, but he would need to review that detail more to know what specific type of plant material is listed.

Mr. Cravens said that he is on the Landscape Review Committee, and the landscaping for this development had been discussed previously. He recalled that the berm was to be landscaped, and that burning bushes would interfere with the look of the berm. Mr. Barrett said that a Taxus (evergreen) hedge are noted on the plan. Mr. Cravens asked if that plant material is a bush, to which Mr. Martin replied that Mr. Barrett would be able to confirm that. Mr. Sallee said that the plan detail is showing a 4-foot Taxus hedge. Mr. Cravens said that during the Committee meetings, it was determined that that type of plant material would not be necessary because Mr.

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Barlow had planted other types of material in lieu of the Taxus hedge. Mr. Martin said that that may be true. At this point, however, the landscaping detail note was on the original development plan; and when the amended development plan was submitted, the staff felt that the landscaping detail should remain. The applicant had then requested that note be removed, which is why the staff was concerned and wanted to make sure that this issue was fully vetted.

The Chair asked, as far as the proposed development plan is concerned, what is being requested for the berms, columns and landscaping. Mr. Martin said that the applicant is requesting to retain the berm, but not the columns or the vegetation. The Chair asked if the applicant's request is for the amended development plan that is in front of the Commission today, to which Mr. Martin replied affirmatively. The Chair clarified that this would pertain to the left side of Ellerslie Park Boulevard. Mr. Martin said that Art. 23A-2(r)(1) of the Zoning Ordinance specifically calls for a 6-foot buffer yard, one tree per 40 feet, plus a minimum of a 4-foot tall hedge, fence, wall or earth mound; or a combination.

Mr. Drake said that a compromise was suggested between trading off a multi-family lot with a single family lot and asked about the economics or the impact for the rates and returns, and what is the risk to the capital. Mr. Barrett said that he could not speak to that question; but the developer is building the townhouses, and typically the townhouses are being sold more quickly than the single family houses. From the developer's perspective, it would depend on how that lot was being sold and whether or not the developer is building the house.

Mr. King said that there is a little confusion with the right side of Ellerslie Park Boulevard; and if there is not an agreement between the developer and the neighbors, the staff would agree to mirror the same type of landscaping that is being proposed along this development. He indicated that the same restriction being applied to the left side of Ellerslie Park Boulevard, as described in the Ordinance, could be applied to the right side of Ellerslie Park Boulevard. The Chair asked how the restrictions being heard today could be applied to the right side of Ellerslie Park Boulevard. Mr. King said that the applicant had made that a part of this amendment, and it is at the Commission's discretion; but he could not speak to what the neighborhood may like for this particular feature. He said that the right side of Ellerslie Park Boulevard is an older development, but it is part of this amendment.

Mr. Drake asked what, specifically, the Commission is being asked to approve at today's meeting. Mr. King said that the Commission is being asked to approve the amended development plan, as it was presented; and to relieve the applicant of the old requirement on the right side of Ellerslie Park Boulevard in favor of the existing berm.

Mr. Barlow said that the initial development plan for the entire subdivision did not have hedges; and at the time the landscaping for the entrance and medians was being designed, they believed that the elevations of these two sides were going to be the same. He then said that there was no landscaping requirement; but they wanted the ambiance of the environment to be a certain way, so he had discussed the landscaping with Ms. Carol Goes, who was the landscape architect at that time. Mr. Barlow said that when they had presented the first phase of the townhouses to the Commission, he was unaware that the landscaping was being shown on the final development plan. He then said that that was the only final development plan that was isolated to itself initially; and when the two roads were constructed, there was a difference of 8 feet between the two elevations. Mr. Barlow explained that they had requested that the existing berms and the irrigation to remain in lieu of the hedge, and he believed that the Committee had made a motion for that to be added as a condition. He then said that it is his fault for the misunderstanding and for not seeing it through at the Planning Commission meeting and he takes full responsibility. He further explained that he was not aware of this issue until a month before the meeting, and this is why Mr. Barrett placed the berms in lieu of the hedge. He said that he had spoken to a number of residents and they requested that the berms remain intact.

Mr. Drake said that it was mentioned that there are 29 homeowners objecting to this proposal, and asked the total number homeowners throughout the development. Mr. Barlow said that they have not done a physical count, but they could estimate there are 75 homeowners in this development.

Ms. Beatty said that she assumed that the petition showing the 29 signatures are the individuals that could not be present for today's meeting, and the people present in the audience are the residents that could attend today's meeting. She asked if this is a correct assumption. Mr. Barlow said that he did have 14 homeowners call his office telling him about the petition, but he has not seen it. Ms. Beatty said that she did not intend for Mr. Barlow to comment on her question, she just wanted to make sure that is what was said during this case.

Ms. Beatty asked if the berm versus the hedge debate had been discussed with the residents of this development, because earlier in the meeting Mr. Barrett noted that he was not aware that Mr. Kelley would be making a presentation. Mr. Barrett said that Mr. Barlow and Mr. Kelley had met in his office the day before this meeting, and they had discussed the hedge on the condominium side, not the townhouse side. Mr. Martin said that con-

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dition #10 reads: "Clarify berms and/or landscaping on Phase 2 to comply with Article 23A-2(r) of the Zoning Ordinance." He then said that the staff wants to ensure that the applicant will comply with this section of the Ordinance. The Chair asked if this will be for the proposed development. Mr. Martin replied affirmatively, adding that this would not apply to the townhouse side. The Chair then asked what condition #13 relates to, to which Mr. Martin said that condition #13 relates to extending the berm and planting along the Tatton Park frontage. The Chair asked if either of these conditions relates back to the condominium side. Mr. Martin said that these conditions do not relate to the landscaping detail of the plan.

Ms. Beatty asked if the Commission is being asked to address the landscaping on the older final development plan. Mr. Martin replied that the applicant has requested that the Commission consider the landscaping issue, and the staff was concerned that that issue was not fully vetted with the neighborhood. The Chair said that he was under the impression that one of those conditions would address the landscaping for the older final development plan, and asked how the street trees could be addressed on the amended development plan. Mr. Martin said that the Commission could approve the applicant's request and utilize the berm in place of the landscaping. The Chair asked if that would be a new condition. Mr. Martin replied yes, that could be a new condition. Mr. King said that the Commission could either approve or deny that change, as part of any action. The Chair said that it could be a new condition; otherwise it stays as it is built on the plan. Mr. Martin said that the applicant had made that a part of their purpose of amendment note. He then said that if the Commission approves this request without any new condition, it is still part of the amendment.

Audience Comment – Judy Blankenbaker said that she lives in front of the fountain, and this proposal is directly affecting her home. She then said that she had received a copy of the amended development plan, and that was the first time she was aware of the berm and the hedge issue. She added that she has not spoken to anyone regarding this issue, but she believes it would be important for the neighborhood to be able to further discuss this issue. She said that the landscape design along Richmond Road is nice, and she would prefer to keep the berm and have it mirror the Richmond Road design.

Ms. Blankenbaker clarified that the 29 signatures that were previously referenced is not a petition. She said that some of the residents had seen the sign posting for today's meeting, but they had no idea what this amendment was about. She then said that, by signing the paper, they are just saying they could not attend the meeting; but they are interested in what happens in their neighborhood.

Planning Commission Question - Ms. Plumlee asked, from what has been said, if the deficiencies have been satisfied, or what remedies would be appreciated. Mr. Kelley said that there are two types of housing in this development, and the Zoning Ordinance calls for a landscape buffer between the different densities. The existing housing is compatible in scale and size. The berm that has been discussed is effectively a part of the intention to have a buffer between the free-standing single family homes and the attached single family housing. The existing berm has not been landscaped, and contrary to what was discussed earlier, the Zoning Ordinance specifically states that there are to be street trees in front of the townhouses. He said that the fundamental concern from the neighborhood is an area that is this small, in an area where the homes are fairly compatible, is that it is taking a huge amount of effort to have issues addressed that should be usual and customary in a quality development. He then said that, when looking at the 6-year history of this development, on top of what is being proposed, there is a high level of anxiety for the residents of this community. He added that the concern of the residents is based on the history of disappointment with the developer. The potential of this development is spectacular, and the residents want it to be continued and done properly. Mr. Kelley said that the berm between the two housing types is not landscaped, and they are not getting that attention to detail, which is the issue.

The Chair said that there have been some deficiencies with the overall development, and now the street trees are being addressed; and as for the landscaping and the berm, there is the ability for those items to also be addressed. He then said that with the changes that have been made, there are assurances in place for these items to be done. He added that these issues will be addressed through the Zoning Compliance report prior to the units being occupied.

The Chair said that the Commission is being asked to consider the amended development plan, and he believes the condition listed does address the issues. He asked if the Commission wants to add a new condition to address the berm and/or landscaping on the right side of Ellerslie Park Boulevard.

Mr. Cravens said that the items being changed are typical for most subdivisions, and for this development the lots have been reconfigured in the past. He then said that, as for the street trees, the home builder builds the houses and generally the developer will charge the home builder for the street trees and then plant those trees at one time; otherwise, the trees could be damaged. Mr. Cravens said that, as for the hedge on the previous development plan, the berm is the better solution. He then said that he was present at the Committee meeting during the conversations regarding the hedge, and it was decided that the hedge was not needed because the developer had done a nice job on the berm. He added that Mr. Barrett had mentioned that Mr. Barlow would be spending \$15,000 for the landscaping.

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Action - A motion was made by Mr. Cravens to approve DP 2013-65: DENTON FARM (ELLERSLIE AT DELONG) (AMD), subject to the revised recommendation, as presented by the staff, noting the staff's EAMP compliance report.

Discussion of Motion – Ms. Beatty asked if the motion on the floor included condition #13. Mr. Cravens replied yes, and said that his motion included extending the berm and the planting along the Tatton Park frontage. He then said that his motion also included subdividing 9 lots into 10 lots, removing one townhouse at the corner of Tatton Park and the access entrance into the townhouse development, omitting the hedge and replacing it with the berm.

The motion was seconded by Mr. Drake, and carried 8-0 (Blanton, Brewer and Penn absent; Wilson abstained).

- b. DP 2013-68: BLUEGRASS BUSINESS PARK, LOT 7 (9/29/13)* - located at 2381 Innovation Drive.
(Council District 2) **(Banks Engineering)**

The Subdivision Committee Recommended: Approval, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
6. Division of Waste Management's approval of refuse collection locations.
7. Documentation of Division of Water Quality's approval of Capacity Assurance Program requirements, prior to plan certification.
8. Denote storm water run-off and aquifer protection notes per the final record plat and notes in effect on adjacent property (DP 2010-18).
9. Denote access easement construction specifications to the approval of the Divisions of Traffic Engineering and Engineering.
10. Denote height of building in feet.
11. Denote road frontage in linear feet in site statistics.
12. Denote construction entrance.
13. Clarify T.P.A adjacent to Curtsinger property.
14. Clarify off-street parking (required and proposed) to account for office uses proposed.

Staff Presentation: Mr. Martin stated that the subject property, which is owned by Commerce Lexington, is located on Innovation Drive in an industrial subdivision. The applicant is proposing to construct a 105,000 square-foot industrial structure with associated parking and a detention basin on the property, with three access points to Innovation Drive.

Mr. Martin said that this item did not appear on the Commission's consent agenda, because the applicant, upon the staff's advice, added a phase II section to their development plan, which is proposed to contain a 48,600 square-foot structure. The staff believed that it would be preferable for the applicant to add the phase II portion to this plan, rather than file an amended plan at such time as they plan to construct that additional structure.

Mr. Martin stated that the proposed development is appropriate and understandable. The Subdivision Committee recommended approval of this plan, subject to the following 16 conditions as listed on the revised staff recommendation:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
6. Division of Waste Management's approval of refuse collection locations.
7. Documentation of Division of Water Quality's approval of Capacity Assurance Program requirements, prior to plan certification.
8. Denote storm water run-off and aquifer protection notes per the final record plat and notes in effect on adjacent property (DP 2010-18).
9. Denote access easement construction specifications to the approval of the Divisions of Traffic Engineering and Engineering.
10. Denote height of building in feet.
11. Denote road frontage in linear feet in site statistics.

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12. ~~Denote construction entrance~~ Delete notes #10 and #14.
13. Clarify T.P.A. adjacent to Curtsinger property.
14. Clarify off-street parking (required and proposed) to account for office uses proposed.
15. Clarify Phase I & II site statistics.
16. Correct note #8.

He said that several of the conditions are typical sign-offs from governmental agencies. Mr. Martin added that there is an existing 60-foot access easement proposed on the property, designed to serve the adjoining Curtsinger property. That easement was originally intended to become a public street at some point, but the applicant has requested that it remain as an access easement at this time. The staff is agreeable to that arrangement; but are recommending that the easement be constructed to the specifications of the Divisions of Engineering and Traffic Engineering, in order to accommodate the additional industrial traffic in the area in the future.

Commission Question: Mr. Owens stated that it appeared on the development plan that the proposed phase II building was located very near to the access easement. He asked if the setback as depicted would be adequate. Mr. Martin answered that the building is proposed to be located close to the access easement, but the staff is comfortable with the layout as depicted on the development plan.

Petitioner Representation: Jason Banks, Banks Engineering, stated that the petitioner was in agreement with the conditions for approval. He added, with regard to Mr. Owens' question about the location of the access easement, that the distance proposed between the access easement and the back edge of the proposed sidewalk was 15 feet.

Citizen Comment: There were no citizens present to comment on this item.

Action: A motion was made by Mr. Berkley, seconded by Ms. Plumlee, and carried 8-0 (Blanton, Brewer, and Penn absent) to approve DP 2013-68, subject to the 16 conditions as listed in the revised staff recommendation.

- c. DP 2002-70: ZANDALE SHOPPING CENTER (AMD.) (10/30/13)* - located at 2200-2290 Nicholasville Road.
(Council District 4) **(Wheat & Ladenburger)**

Note: The purpose of this amendment is to add buildable area and parking. This plan was approved by the Planning Commission at its August 8, 2002, meeting; reapproved on June 12, 2003; and granted a one-year extension on June 10, 2004, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of parking, circulation, street cross-sections and access.
3. Building Inspection's approval of landscaping.
4. Urban Forester's approval of tree preservation plan.
5. Clarify purpose of amendment note.
6. Resolve building versus easement conflicts prior to plan signature.
7. Complete building lines.
8. Denote: This plan voids and supersedes DP 2001-102, which was previously approved by the Planning Commission.
9. Review by the Technical Committee prior to plan certification.

Note: The Planning Commission reapproved this plan on July 14, 2005, subject to the first eight conditions listed above, as it had already been reviewed by the Technical Committee (per condition #9), and adding the following conditions:

9. Remove the off-street parking area along the existing service road within 250' of Zandale Drive, and relabel dimension of planting area.
10. Posting of a bond, in an amount agreeable to the Division of Traffic Engineering, to construct a median prohibiting left turns in and out of the service road onto Lowry Lane, if required by warrants of five correctable crashes in a one-year period from issuance of final occupancy permits, with the bond to be valid for a two-year period.

Note: This plan was certified on October 21, 2005, but building permits were not obtained within five years from that date. Subsequently, DP 2013-13 was approved for this site, but that plan has been withdrawn by the applicant. The applicant now requests reapproval of the plan.

The Staff Recommends: Reapproval, subject to the original conditions listed on today's agenda, revising two conditions and two additional conditions:

3. Building Inspection's approval of landscaping and landscape buffers.
4. Urban Forester's approval of tree preservation plan and required street tree information.
11. Documentation of Division of Water Quality's approval of Capacity Assurance Program requirements, prior to plan certification.
12. Denote: This plan voids and supersedes DP 2013-13, which was previously approved by the Planning Commission.

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Staff Presentation: Ms. Gallt oriented the Commission to the location of the subject property on Nicholasville Road, between Zandale Drive and Lowry Lane. She stated that the subject property contains the original Zandale Shopping Center, as well as a vacant lot to the rear of the existing structures. At the time of its signing in 2005, this development plan allowed the applicant to construct the Walgreen's store that currently exists on the subject property; it also depicted some additional development along the rear of the property. In early 2013, the applicant submitted a new development plan for the property, which was approved by the Planning Commission, but it has not yet been signed. Ms. Gallt stated that the applicant is now requesting to withdraw the 2013 plan, and is submitting this plan for reapproval, in order to construct the structures depicted at the rear of the property.

Ms. Gallt stated that, when this plan was originally approved in 2005, there were 10 recommended conditions for approval. The staff is now recommending modifications to conditions 3, 4, 11, and 12, as listed in the revised staff recommendation and on the agenda. Ms. Gallt stated that the staff is recommending reapproval of this plan, subject to the revised 12 conditions.

Applicant Representation: Roger Ladenburger, Wheat & Ladenburger, indicated that the applicant is in agreement with the staff's recommendations, and he requested approval.

Citizen Comment: There were no citizens present to comment on this item.

Action: A motion was made by Ms. Beatty, seconded by Ms. Mundy, and carried 8-0 (Blanton, Brewer, and Penn absent), to re-approve DP 2002-70, subject to the 12 conditions as recommended by the staff.

3. **PERFORMANCE BONDS AND LETTERS OF CREDIT** – Any bonds or letters of credit requiring Commission action will be considered at this time. The Division of Engineering will report at the meeting.

Action - A motion was made by Mr. Cravens, seconded by Ms. Beatty, and carried 8-0 (Blanton, Brewer, and Penn absent) to approve the release and call of bonds as detailed in the memorandum dated August 22, 2013, from Hillard Newman, Division of Engineering.

- V. **ZONING ITEMS** - The Zoning Committee met on Wednesday, August 1, 2013, at 1:30 p.m. in the Division of Planning Office. The meeting was attended by Commission members Carla Blanton, Patrick Brewer, Mike Cravens, and Bill Wilson. The Committee reviewed applications, and made recommendations on zoning items as noted.

A. **FULL PUBLIC HEARINGS ON ZONING ORDINANCE TEXT AMENDMENTS**

1. **ZOTA 2013-8: AMEND THE DEFINITION OF VEHICLE STORAGE YARD** – petition for a Zoning Ordinance text amendment to Article 1-11 to amend the definition of "vehicle storage yard" to allow inoperable vehicles to be stored no longer than 60 days in a vehicle storage yard.

REQUESTED BY: L. Roberts Properties, LLC

PROPOSED TEXT: (Note: Underlined text indicates an addition, ~~text dashed through~~ indicates a deletion to the current Zoning Ordinance.)

ARTICLE 1: GENERAL PROVISIONS AND DEFINITIONS

1-11 DEFINITIONS

VEHICLE STORAGE YARD – A place where vehicles which bear a current license plate in accordance with state law and not used in the conduct of a trade, business, or profession are kept for 24 hours or longer. A vehicle storage yard does not include a yard for storage of dismantled or partially dismantled automobiles, storage of inoperable vehicles for longer than 60 days, a parking lot, truck terminal, automobile wrecking, or junk yards.

STAFF ALTERNATIVE TEXT:

VEHICLE STORAGE YARD – A place where vehicles which have a current vehicle registration and bear a current license plate in accordance with state law and not used in the conduct of a trade, business, or profession are kept for 24 hours or longer. A vehicle storage yard does not include a yard for storage of dismantled or partially dismantled automobiles, storage of inoperable vehicles for longer than 60 days, a parking lot, truck terminal, automobile wrecking, or junk yards.

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The Zoning Committee Recommended: **Approval of the Staff Alternative text**, for the reason provided by staff.

The Staff Recommends: **Approval of the staff alternative text**, for the following reason:

1. The proposed text amendment to modify the definition of "vehicle storage yards" to permit temporary storage of inoperable vehicles for a maximum of 60 days is logical and consistent with state law, as well as community and national business practices.

Staff Presentation: Ms. Wade presented the staff report, explaining that vehicle storage yards are currently permitted in the Light Industrial (I-1) zone as a conditional use. Vehicle storage yards were permitted in the I-1 zone as a principal use prior to 1985, and some of those facilities still exist today; and they are also currently permitted as a principal use in the Heavy Industrial (I-2) zone. The petitioner is requesting to amend the definition of "vehicle storage yard" in the Zoning Ordinance.

Ms. Wade stated that, currently a vehicle storage yard is a place where vehicles that bear a current license plate, and are not used in the conduct of a trade, business, or profession, are kept for 24 hours or longer. The definition excludes or differentiates between some of the other uses in the Zoning Ordinance. It notes that a vehicle storage yard is not a yard for storage of dismantled vehicles; a junkyard; a parking lot; truck terminal; or automobile wrecking yard.

Ms. Wade said that the petitioner is requesting to add a phrase to the existing definition of this use so that inoperable vehicles can be stored in a vehicle storage yard for up to 60 days. She stated that, currently, inoperable vehicles cannot be stored at all at a vehicle storage yard. Following roadway accidents, vehicles are often towed to vehicle storage yards, but that is not actually permitted in the Zoning Ordinance; and those vehicles must instead be stored at a junkyard or repair shop. The petitioner contends that the primary purpose of a vehicle storage yard is to hold vehicles that have been towed due to accidents, parking violations, or repossession. Ms. Wade explained that state law requires that vehicles must be held for 45 days in order to allow for the owner of the vehicle to obtain it; after that time, it is lawful to dispose of it. The proposed definition change would allow the owner of a vehicle storage yard an extra two weeks beyond that state law requirement, to provide for the advertisement and disposal of the vehicles, if necessary.

Ms. Wade stated that the petitioner has indicated that, on average, vehicles stay in the storage yard for only three days. The petitioner also noted that they make it a practice to work with vehicle owners in order for them to regain their property as soon as possible, so it is unusual for any vehicle to remain in the storage yard for the full 45 days.

Ms. Wade added that no work would be done on the vehicles while they were stored in a storage yard; the vehicles could not be dismantled; and the vehicles must have a current license plate. The staff is recommending additional language to require that vehicles also have a current registration, in addition to bearing a current license plate. Ms. Wade stated that the staff and the Zoning Committee are recommending approval of this request, for the reason provided by staff in the staff report.

Petitioner Representation: Richard Murphy, attorney, was present representing the petitioner. He stated that the primary reason for the proposed text amendment is to provide the petitioner with an extra 15 days to dispose of unwanted vehicles after the 45-day waiting period required by state law. He noted that the proposed text amendment would actually impact very few vehicles, since most are removed from the vehicle storage yard within a few days.

Mr. Murphy noted that the proposed text amendment does not relate in any way to the recent rezoning request filed by Pull-A-Part, which was for a junkyard. He said that, as a vehicle storage yard, the petitioner cannot work on cars, remove parts from them, or sell parts to customers. The petitioner's facility retains vehicles, usually for a few days, until they are reclaimed by their owners or inspected by insurance adjusters.

Mr. Murphy clarified, with regard to the staff's proposed additional language that would require stored vehicles to have a current registration, as well as a current license plate. However, the petitioner occasionally receives cars that do not have current registration stickers on their license plates. He explained that the petitioner had discussed that issue with the staff, and the staff agreed that, in emergency situations, it would be allowable for the petitioner's facility to receive such a vehicle.

Commission Questions: Mr. Wilson asked if a vehicle owner would be allowed to remove a part from a car that was stored at the petitioner's vehicle storage yard. Mr. Murphy answered that the vehicle would have to be removed from the premises prior to the removal of any parts.

Citizen Comments: Mike Markland, 1298 Viley Road, stated that he was concerned that text amendments such as this one could "blur the lines between Light Industrial and Heavy Industrial" uses, although he is not opposed to the petitioner's vehicle storage yard facility. He said that he did not want the proposed text amendment to be the first step toward allowing a junkyard in the Light Industrial zone.

Mr. Markland said that he had also attended the recent Pull-A-Part public hearing, during which one of the Commission members had commented that the nearby residents had moved into a subdivision near an industrial park. He stated that he and many of his neighbors had moved into the neighborhood years ago, and that the Planning Commission then allowed zone changes that permitted the industrial park to locate in his neighborhood. Mr. Markland said that he and his neighbors depended on the zoning that was in place when they bought their homes to protect their single largest investments. He

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asked the Commission members to “not forget the people who lived there before.”

Todd Strecker, 1404 Parterre Court, stated that he was also concerned about that property that had been proposed for rezoning by the Pull-A-Part company. He said that he is not opposed to the proposed text amendment, but he is concerned about the loss of Light Industrial property, as well as the possibility of Heavy Industrial uses “creeping” into the Light Industrial zone. Mr. Strecker submitted a written statement for the record, and asked that the Commission not allow the lines between Light Industrial and Heavy Industrial uses to become blurred, which could allow a facility such as Pull-A-Part to locate in an I-1 zone.

Petitioner Rebuttal: Mr. Murphy stated that the petitioner is not proposing to change the zones in which vehicle storage yards are permitted, but is merely “tweaking” the definition of the use. He said that the petitioner understands the citizens’ concerns about the possibility of the proposed text amendment altering the I-1 zone such that an automobile salvage yard could be located there. Mr. Murphy said that the applicant and the staff believe that the proposed text has been drafted in such a way that that would not occur.

Staff Rebuttal: Ms. Wade stated that the staff had discussed with the petitioner the necessity to secure a conditional use permit for their vehicle storage yard if they choose to locate in an I-1 zone. That would require a filing to the Board of Adjustment, with required mailed notice and a public meeting. She said that, should the petitioner choose to locate in an I-2 zone, the vehicle storage yard would be permitted as a principal use.

Action: A motion was made by Ms. Plumlee, seconded by Ms. Mundy, and carried 8-0 (Blanton, Brewer, and Penn absent) to approve ZOTA 2013-8, for the reasons provided by staff, with the staff alternative text.

VI. COMMISSION ITEMS

- A. REQUEST FOR INITIATION OF A CHANGE TO CONDITIONAL ZONING RESTRICTIONS** – Rosenstein Development has requested Planning Commission initiation of a Zoning Map Amendment to change conditional zoning restrictions on private property located at 760 & 789 Newtown Springs Drive and 1433 & 1445 Newtown Center Way to:
- i. Change the required 4-plank fence to a 3-plank fence along the Newtown Pike frontage, and
 - ii. Allow the existing landscaping planted along the Legacy Trail to replace the previous tree planting requirements.

The Zoning Committee Recommended: **Approval** of this request.

Staff Presentation: Mr. Sallee began the staff’s presentation by orienting the Planning Commission to the location of the subject property, just off Newtown Pike at the southeast corner of that roadway’s intersection with Citation Boulevard. He displayed on the overhead projector an exhibit that was presented to the Commission over a decade ago, when the property was initially rezoned. The subject property has not been developed, with the exception of the street system, which is mostly in place; some single-family homes; and an assisted living facility approved by the Commission within the past few years.

Mr. Sallee explained that this request involves the frontage of the subject properties, along Newtown Pike. Referring to the exhibit from the rezoning hearing, he said that it depicted the landscape plan that was approved at that time. Along the Newtown Pike frontage is a buffer area, 75 feet in width. At that rezoning hearing, which was the third attempt to rezone the property, the Planning Commission imposed two conditional zoning restrictions: first, that there be a four-plank, horse farm fence installed along the property’s frontage; and, second, that trees be planted in that buffer area, as was depicted at the meetings involving this rezoning request.

Mr. Sallee said that the petitioner is now requesting that the conditional zoning restrictions be changed to allow a three-plank fence to be constructed, and to allow a substitute landscaping plan to be used along the Newtown Pike frontage. He explained that, since the subject property was rezoned, the Legacy Trail has been installed in the 75’ buffer area. Along with that construction, a landscaping plan was created to site the location of the trees to be planted along the trail. Referring to an exhibit depicting the layout of the Legacy Trail, Mr. Sallee noted that the landscape plan depicted approximately 25 trees, but by the staff’s count, approximately 30 have been planted along the subject property’s frontage.

Mr. Sallee said that the petitioner negotiated the location of the Legacy Trail in the buffer area on the subject property, along with the landscaping. This initiation request will essentially finalize the negotiations between the private property owner and LFUCG, thus completing the Legacy Trail project in this area. Mr. Sallee stated that the purpose of this initiation request is to begin the process of changing the zoning to revise the two requested conditional zoning restrictions, so that the Legacy Trail landscaping could be substituted for what was originally proposed at the time of the rezoning of the subject property in 2000.

Commission Questions: Mr. Owens asked if the 31 existing trees are distributed evenly over the four addresses that comprise the subject property. Mr. Sallee answered that the Newtown Pike frontage was originally one property; it was divided into four properties following the construction of the new street.

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Mr. Sallee noted that, if the Commission chooses to initiate this request, the staff would begin preparing the application, and there would be a public hearing on the request at some point in the near future.

Petitioner Representation: Ike Fleming, attorney for Dinsmore & Shoal, was present representing the petitioner. He stated that the proposed modification to the conditional zoning restrictions is part of the contractual obligation undertaken by LFUCG during the development of the Legacy Trail. He said that this is the first step toward fulfilling that contractual obligation.

Action: A motion was made by Mr. Berkley, seconded by Ms. Mundy, and carried 8-0 (Blanton, Brewer, and Penn absent) to initiate a change to the conditional zoning restrictions as proposed.

B. PFR 2013-5: LEXINGTON-FAYETTE COUNTY AIRPORT BOARD – A Public Facility Review of new construction of airport hangers and a fueling & washing facility, at 4444 - 4484 Gumbert Road (off Versailles Road) (Council District 12)

SUMMARY FINDINGS: The Land Use Element, the text and the Goals and Objectives of the 2007 Comprehensive Plan, as well as the Goals and Objectives of the 2012/2013 Plan, clearly support the proposed improvements to the Blue Grass Airport property. Although not totally in agreement with the Land Use Element (because a portion of the development will not be within the Rural Activity Center), the proposal is in substantial agreement, as most of the new construction and expanded use will be located within the RAC boundary. The Goals, Objectives and text that reference environmental stewardship and protection, as well as those that reference economic development, will be enhanced by the proposed additional use of the property, provided Best Management Practices are used during construction of the proposed buildings; and the character of the Versailles Road corridor will not change as a result of the new construction, as the hangars will be architecturally enhanced to blend with surrounding properties, including the Keeneland Race Track.

STAFF RECOMMENDATION: Approval, as requested. Although exempt from zoning regulations, safety, health and environmental health issues must be considered when doing any type of construction, particularly when it is for the purpose of human habitation/use. It is therefore recommended that any permits that would generally be applicable to construction, including a building (and any other applicable) permit from the State, and an inspection by Lexington-Fayette County's Fire Marshall, be obtained prior to construction and/or occupancy of the building.

Staff Presentation: Ms. Rackers presented the staff report, briefly orienting the Commission to the location of the subject property on Gumbert Road, within the airport property off of Versailles Road. Ms. Rackers stated that the petitioner is proposing to use approximately 25 acres of the airport property to construct multiple T-hangars and box hangars on an existing concrete apron for the use of private and corporate aircraft operators. The petitioner is also proposing to construct a fueling and washing facility in the same area at some point in the future.

Ms. Rackers stated that the 2007 Comprehensive Plan recommends approximately 2/3 of the airport property, which comprises the Rural Activity Center, for Other Public Uses. The remainder of the property is recommended for Core Agricultural and Rural Land use. Other Public Uses include large, prominent facilities that benefit the public, such as universities, hospitals, government offices, or airports. Ms. Rackers noted that the existing concrete apron and runway extend over the Rural Activity Center boundary, which is part of the reason why this request is not in total compliance with the Comprehensive Plan. She explained, however, that most of the project will be in compliance; there are seven Goals and 28 Objectives, which were listed in the staff report, that generally support this project. There are also three Goals and four Objectives of the 2013 Comprehensive Plan that support this request, and two Goals and several Objectives that relate to Rural Activity Centers in general, and the airport in particular.

Ms. Rackers said that the Comprehensive Plan Mission Statement notes that part of the mission of Lexington-Fayette County is to "provide a vision for physical development that will allow Lexington-Fayette County to grow and prosper, promoting economic development and viable job development, while preserving the quality of life that makes it a desirable place to work and live; and protecting and enhancing existing neighborhoods, downtown and in the rural, Bluegrass cultural landscape." She said that the airport contributes to employment with approximately 3,500 jobs. The total economic output of the airport is approximately \$370 million, which affects both rural and urban areas. The airport plays a significant role in Lexington-Fayette County's economy as a major support facility for the equine industry, healthcare facilities, and colleges and universities.

Ms. Rackers stated that the proposed project, which is known as the Westside General Aviation Development Area, was a recommendation of the airport's master planning consultant, whose findings are contained in the airport's November 2012 master plan update. The development area adjoins Runway 9-27, which was constructed in 2010 to replace an older, shorter runway. The project is proposed to ultimately include 11 hangars and nested T-hangar buildings of varying sizes, with a pre-engineering metal building system. Upon completion, the total project is proposed to be approximately 100,000 square feet in size, with an asphalt parking area to accommodate 60 vehicles. The buildings are proposed to be constructed with exterior architectural features to allow them to blend in and reflect the rural nature of the airport's location in the Versailles Road corridor across from Keeneland. Ms. Rackers noted that a significant amount of sitework and infrastructure improvements were included in the 2010 runway construction, in anticipation of this project, including improving the quality of stormwater runoff; constructing detention basins to contain and control runoff; installing a storm drain system; installing sanitary sewer mains and manholes, a pump

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station, force main, potable water main, fire hydrants, electric main, fiber optics, access security and fencing, and communication mains for operational support and services. She said that one of the basic principles of the Comprehensive Plan is the protection of the environment, and all of those site improvements will contribute to that goal by helping to minimize any negative effects of stormwater runoff. That protection will benefit the airport property, as well as the adjoining properties to the west, where there is a significant amount of floodplain.

Referring to the site layout on the overhead projector, Ms. Rackers noted the location of the proposed hangars and storage building. She also displayed a FEMA floodplain map of the area, noting that the staff is recommending that the petitioner use Best Management Practices during construction in order to avoid negatively impacting the properties located in the nearby floodplain area.

Ms. Rackers stated that, because the proposed construction extends across the boundary of the Rural Activity Center, it cannot be found to be in complete compliance with the Land Use Element of the Comprehensive Plan. The staff believes, however, that it is supported by the Goals and Objectives, and that the proposed location is the most logical place on the property for the project. The staff is recommending approval, subject to the petitioner obtaining all necessary permits from the state and the completion of any necessary inspections by the Fire Marshal prior to the occupancy of any of the buildings.

Commission Questions: Mr. Drake asked what the Planning Commission's responsibility was with regard to this Public Facility Review. Ms. Rackers answered that the Planning Commission's responsibility was to review this request with regard to its compliance with the Comprehensive Plan, and make a finding as to whether or not it complies. If the Commission finds that the request does not comply with the Comprehensive Plan, she noted, they could make recommendations to make the request more in compliance.

Petitioner Representation: Charlotte McCoy was present representing the Airport Board. She noted that the Executive Director of the Board was present, as well as several other stakeholders/airport personnel, and they would be available to answer the Commission's questions.

Citizen Comments: Mike Markland, 1298 Viley Road, stated that he was a private pilot, and he had waited for over three years to get a hangar at Bluegrass Airport. He said that he believes that the proposed project is needed, and that the Airport Board has done an excellent job to make this facility attractive and successful.

Action: A motion was made by Mr. Drake, seconded by Mr. Wilson, and carried 8-0 (Blanton, Brewer, and Penn absent) to find that the proposed project is in compliance with the recommendations of the 2007 and 2013 Comprehensive Plans.

C. PFR 2013-7: BLUEGRASS DOMESTIC VIOLENCE PROGRAM – A Public Facility Review of new construction of six duplexes to be used as transitional housing, at 4400 Briar Hill Road (Council District 12).

SUMMARY FINDINGS: Although not in compliance with the Land Use Element of the *2007 Comprehensive Plan*, the program and property have not been in compliance with that portion of the Plan since 1998 or 1999 when the Mary G. Copeland Home built the shelter and located there. As part of the 1998 review, the Staff made several recommendations to bring the property more into compliance with the 1996 Plan (some of which were also recommended by the Planning Commission), many of which were implemented when the program was relocated from downtown Lexington to the Briar Hill property. Additionally, there is now a working farm on the property, which also helps to bring it into more compliance with the **CARL** recommendation of the 2007 Plan. The text of the Plan and several Objectives support the proposed housing, which is a logical extension to the current use of the property, and substantially similar to tenant homes on a working farm with regard to size, location on the property, construction and use (although for a different purpose). The program itself is supported by the Comprehensive Plan – both text and Goals and Objectives (2007 and 2012/2013) – as it applies to providing needed social services, as well as safe and affordable housing for disadvantaged citizens.

RECOMMENDATION: **Approval**, with the following recommendations:

- That all fencing be maintained on the 40±-acre property;
- that the perimeter screening be maintained inasmuch as possible, and that it be supplemented where needed;
- that the new driveway/road to the proposed housing, as well as the individual driveways, be paved;
- that the working farm on the property be maintained;
- that at least an 825-foot setback be maintained for any structures (recommended by the staff in the original staff report for the Mary G. Copeland Home and upheld/recommended by the Planning Commission at the April 1998 hearing); and that the housing/duplexes be constructed and laid out according the submitted site plan, and that they only be used for the purpose as described in this Public Facility Review request.

Staff Presentation: Ms. Rackers began the staff's presentation by entering into the record a letter of concern from Jim Shropshire, representing the Briar Hill Neighborhood Association. She distributed the letter to the Planning Commission members for their review.

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Ms. Rackers stated that the petitioner is proposing to locate transitional housing for domestic violence survivors on the subject property, which is located on Briar Hill Road. The property and all surrounding properties, one of which contains a small church, are zoned Agricultural Rural (A-R). The property is approximately 40 acres in size, and it currently serves as the location for the Bluegrass Domestic Violence Shelter, which provides accommodations for victims of spouse abuse and their children. Ms. Rackers noted, with regard to the site statistics provided by PVA, that the basement of the structure is not actually the same size as the main floor; rather, it is approximately 400 square feet in size.

Ms. Rackers stated that the petitioner is proposing to construct six duplexes near the rear of the subject property, to serve as transitional housing. She said that, like the earlier Public Facility Review for Bluegrass Airport, this request is not in compliance with the Land Use recommendation of the Comprehensive Plan, which calls for Core Agricultural and Rural (CARL) land use. That recommendation carries over from the "General Rural" recommendation of the 1996 Comprehensive Plan.

Ms. Rackers explained that the property was the subject of the first Public Facility Review by the Planning Commission, in 1998. At that time, the Mary G. Copeland home (a facility for abused and neglected children under the age of 10) became the original occupant of the property, following a Public Facility Review. That facility was subsequently closed; it reopened in 2000 as the Bellewood Presbyterian Home for Children. Although the facility still bears that name, it has also operated as the Bluegrass Domestic Violence Program since 2005. At the time of the Public Facility Review in 1998, representatives from both the Briar Hill Neighborhood Association and the Fayette County Neighborhood Council were present in opposition to the establishment of this proposed use in the rural area. Ms. Rackers stated that, during that review, the staff found that the proposed use was not in compliance with the 1996 Comprehensive Plan. Several parts of the 1996 plan did support it, but there were also several that did not. It was noted in the 1998 staff report that the Comprehensive Plan had an equal number of points in support of and opposition to that request. Also in that report, the staff made several recommendations that could bring the proposed use more into compliance with the Zoning Ordinance. Some of those recommendations were implemented, and they are reflected in the current development of the property.

Ms. Rackers stated that, after reviewing the 2007 Comprehensive Plan and the Goals & Objectives of the 2013 Comprehensive Plan, the staff determined that more was found to be in support of this request now than in 1996. Only Goal 6, Objective J, which discourages residential development unrelated to agriculture in the Rural Service Area; and Goal 7, Objective A, which is to reserve the rural area for rural activities, are not in support of this request. Three Goals do not reflect support or opposition for this request; four Goals could be interpreted to be in support or opposition, depending on the interpretation; and several Goals support this project directly. (All of the aforementioned Goals and Objectives are listed in the staff report.)

Ms. Rackers said that the 1998 Public Facility Review staff report noted that the closest analogous uses in the Zoning Ordinance were "orphanage" and "rehabilitation home," both of which could be considered Other Public Uses or Semi-public Facilities; neither of which, however, are recommended for the Rural Service Area, although there are existing facilities in the Rural Service Area that would fall into those categories. The 1998 staff report also noted that those existing facilities in the Rural Service Area did not pose a threat to the character of the rural area, and the staff maintains that that assertion is still true today; however, most conditional uses in the A-R zone are now limited to 10,000 square feet in size, and they all require the approval of the Board of Adjustment.

Ms. Rackers said that, because the proposed use is so unobtrusive, the staff believes that it would not be a threat to the character of the rural area, which provides a level of support for the proposed housing. In addition, the petitioner operates a small working farm on the property, which provides a food source for the residents, as well as an opportunity to sell the goods at local farmers' markets. The staff believes that the working farm operation helps to support the CARL recommendation for the property.

Ms. Rackers stated that the Bluegrass Domestic Violence program located on the subject property, which they lease from the Commonwealth of Kentucky, in 2005. They provide emergency shelter and other support services for domestic violence victims, including housing assistance, clothing, counseling, and legal aid. Referring to the submitted site plan, Ms. Rackers explained that the petitioner is proposing to construct six duplexes, varying in size from 822 square feet to 1,236 square feet, and one to two stories in height, with one-, two-, and three-bedroom units. The duplexes are proposed to be clustered around a park-like area and a playground, with each unit having its own driveway. All of the units will be wheelchair-accessible, with one unit designed to be totally handicap-accessible.

Ms. Rackers said that the staff believes that the proposed transitional housing units would be not unlike tenant housing for full-time workers on a farm. The main difference is that the proposed housing would be part of an established program, for which the potential residents would have to qualify by being either at or below 60% of the area median income. The project is proposed to be funded by low-income housing tax credits that are to be issued by the Kentucky Housing Corporation.

Ms. Rackers stated, in summary, that, although the proposed construction is not in compliance with the Land Use Element of the 2007 Comprehensive Plan, the program and the property have not been in compliance since 1999. As part of the 1998 review, the staff and the Planning Commission made recommendations to bring the use more into compliance with the Zoning Ordinance, many of which have been implemented. The staff believes that the working farm on the property helps to support the CARL recommendation for the property, and that the proposed housing is a logical extension of the existing use. Ms. Rackers said that the domestic violence program is supported by both the 2007 Comprehensive Plan and the Goals & Objec-

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tives of the 2013 Plan, as they apply to providing needed social services and safe, affordable housing for disadvantaged persons. Ms. Rackers concluded by saying the staff is recommending approval, with the recommendations as listed in the staff report and on the agenda, adding that the staff is also providing a recommendation that the septic system for this new use must be approved by the Board of Health.

Commission Questions: Mr. Owens asked if the Planning Commission's duty in this case was to determine whether or not the Public Facility Review request was in compliance with the Comprehensive Plan, to which Ms. Rackers answered affirmatively. Mr. Owens stated that Ms. Rackers had indicated that the request was not in compliance. She responded that it is not in compliance with the Land Use Element of the Comprehensive Plan, but it is in partial compliance, although it is substantially similar to the types of uses typically designated as Other Public Uses or Semi-Public Facilities.

Ms. Beatty asked if the existing facility on the property is an approved conditional use. Ms. Rackers responded that it is not, since it was done as a Public Facility Review.

Mr. Owens stated that there is a need for the domestic violence transitional housing program, and that he believed that that need would likely increase in the future. He added that, contrary to Ms. Rackers' assertion, he counted eight Goals & Objectives in opposition to this request, and only five in support. Mr. Owens said that his primary concern was that the proposed facility would essentially be a Group Residential Project located in the rural area, and he did not believe that was the appropriate location for it. He added that he would be very uncomfortable making a recommendation that this request was in compliance with the Comprehensive Plan, because a developer could use that recommendation as a precedent to allow further development in the rural area. Ms. Rackers noted that this Public Facility Review could not be cited as a precedent, since the petitioner's organization is a government entity and their filing process was completely different from the typical development plan or zone change process. Mr. Owens said that he has no problem with the domestic violence program itself, but he is concerned about allowing 12 residences to be constructed on a 40-acre tract in the rural area.

Mr. Cravens asked if the subject property was the former Briar Hill School site. Mr. Saltee responded that the school site was further to the east on Briar Hill Road. Mr. Cravens asked for what purpose the existing building on the subject property is used. Ms. Rackers responded that that structure is the domestic violence shelter operated by the petitioner. Mr. Cravens asked Ms. Rackers to indicate the location of the duplexes on the site. Ms. Rackers did so, using the site plan displayed on the overhead projector. Mr. Cravens stated that he did not share Mr. Owens' concerns about the proposed project, since the property is already in use as a domestic violence shelter, and that he would support this request.

Ms. Plumlee opined that she had no qualms about the quality of the domestic violence program, but she was concerned about the use of 40 acres in the rural area, and that it could set a precedent. She said that she believed that developers would attempt to use this case in order to justify future development in the rural area. Ms. Rackers stated that any private developer would not be exempt from zoning regulations, as is the petitioner. Ms. Jones added that governmental entities are not required to follow the Zoning Ordinance; the Planning staff is simply asked to review proposed projects with regard to compliance with the Comprehensive Plan. She added that, regardless of the Commission's decision, it would not disallow the petitioner from developing the proposed transitional housing on the property. Ms. Jones also noted that the process for a private developer would be completely different, and a non-governmental entity would be subject to the requirements of the Zoning Ordinance. Ms. Rackers noted that, during the 1998 Public Facility Review for the property, the attorney for the neighborhood thought the request should be reviewed by the Board of Adjustment as a conditional use. The Law Department determined that the petitioner in that case was a governmental entity, since it was run by the Commonwealth of Kentucky, and that it was not subject to zoning requirements.

Mr. Wilson asked why the Planning Commission was being asked to review this request, since the petitioner could proceed without their approval. Ms. Rackers answered that KRS.100 requires that any change to a property owned by a government entity must go through the Public Facility Review process to determine if it is compliance with the Comprehensive Plan. Mr. Wilson said that it appeared that it would not matter what recommendation the Commission made. Ms. Rackers said that the Commission could make recommendations to go along with their decision, and the petitioner might choose to abide by them. She added that the petitioner in the 1998 Public Facility Review did follow some of the recommendations made by the Planning Commission at that time. Ms. Jones read KRS 100.361, which was quoted in the staff report: "Nothing in this chapter should impair the sovereign immunity of the Commonwealth of Kentucky." Mr. Wilson stated that he was in favor of the domestic violence program and the proposed project, but he had been confused about the Commission's role.

Mr. Berkley said that he did not believe that the proposed project was in compliance with the Comprehensive Plan, but that the project should go forward. Ms. Rackers noted that most of the non-agricultural uses in the rural area do not comply with the Comprehensive Plan, but they are regularly approved by the Board of Adjustment as conditional uses. Mr. Berkley stated that he was uncomfortable with the fact that the Commission was being asked to make a recommendation for a project that is clearly a good cause, but does not comply with zoning regulations. Ms. Rackers noted that, in the existing Rural Activity Centers, the Comprehensive Plan recommendation is often split between Other Public Uses for the RAC portion of the property, and CARL for the remainder of the property, citing the previous Public Facility Reviews for the state's Bluegrass Station property and the Bluegrass Airport.

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Ms. Mundy stated that she believed that the Planning Commission should go on record as noting that the proposed project is not in compliance with the Comprehensive Plan, even though she supports the petitioner and the program itself. She said that she believes that this project will set a precedent, and that the Commission could be forced to review a development proposal based on that assertion. Ms. Mundy noted that she does support the program itself, but she could not support a recommendation that the proposal is in compliance with the Comprehensive Plan. She added that, as long as the Commission is required to make decisions based on the recommendations of the Comprehensive Plan, she believes that they should support those recommendations.

Ms. Beatty stated that she strongly supports the domestic violence program, and that she believes that a transitional housing development would be a positive for that program. She opined, however, that it was clear after reading Goal 6, Objective J, and Goal 7, Objective A, that the proposed project is not in compliance with the Comprehensive Plan. Ms. Beatty added that she was concerned that the petitioner would need to construct additional transitional housing on the property within a few years. She said that she would strongly support the location of the proposed development within the Urban Service Area.

Mr. Drake stated that he understood his fellow Commission members' concerns. He added that he believes it is extremely important for the Commission to exercise good judgment, particularly in situations where guidelines are not clearly defined. Mr. Drake said that he believes that programs such as the one proposed are under siege politically, with funding being reduced across the board. He opined that "the greater good argues that we should try to find a way to do this," rather than finding reasons why it should not be done, so he would support the staff recommendation.

With regard to Ms. Beatty's comments about locating the proposed facility within the Urban Service Area, Ms. Rackers stated that the domestic violence program might have located in a rural area for protection of its clients.

Mr. Wilson asked how this Public Facility Review was different from the one the Commission just considered, for Bluegrass Airport. Ms. Rackers responded that it was similar, in that both requests are in partial compliance with the Comprehensive Plan. In both cases, the staff found the requests to be substantially in compliance, although not with the Land Use Element of the Comprehensive Plan. Ms. Rackers added that the facility has existed on the subject property since 1999, and it has been out of compliance since that time. Mr. Wilson stated that he was going to focus on the "product of the program" and the work they are doing with domestic violence victims.

Mr. Owens reiterated that he agreed that there was a need for the proposed project. He said that he did not agree with the staff's contention that the proposed development was similar to tenant houses on farms, and added that the Goals and Objectives cited by the staff as being in support would apply to this use wherever it was located, whether inside the USA boundary or outside. Mr. Owens concluded by opining that there were more statements in the Goals & Objectives that were contrary to this request than those in support of it.

Citizen Comments: There were no citizens present to comment on this request.

Motion: A motion was made by Ms. Mundy and seconded by Ms. Plumlee to recommend disapproval of PFR 2013-7, based on the 2007 Comprehensive Plan, Goal 6, Objective J, and Goal 7, Objective A; she added a recommendation that the petitioner abide by the staff's recommendations, as listed in the staff report, including three additional recommendations:

- That the septic system must be approved by the Board of Health;
- That the petitioner continue to operate the working farm on the site; and
- That the petitioner should consider relocation of their facility inside the Urban Service Area boundary, which would be more compliant with the Comprehensive Plan.

Action: Ms. Mundy's motion failed, 4-4 (Berkley, Cravens, Drake, and Wilson opposed; Blanton, Brewer, and Penn absent).

Parliamentarian Comment: Mr. Wilson noted that any new motion must be substantially different from the original motion; a motion of reconsideration must be made first; and that motion must be made by someone on the prevailing side.

Discussion: Mr. Owens asked if this item would be brought back for reconsideration in 30 days, should the Commission fail to agree on a course of action. Ms. Rackers answered that the Commission was not recommending approval or disapproval of the request; their role was to find that the request was either in agreement or not in agreement with the recommendations of the Comprehensive Plan. She added that the Commission was not required to take another vote. Mr. Sallee noted that the 30-day reconsideration provision only applied to zone changes. Ms. Jones added that the statute requires that, if the Commission fails to act, the petitioner is required to wait 60 days from the filing of the request before they can go forward.

Mr. Drake asked when the implementation of the project was scheduled to take place. Mary O'Doherty, Kentucky Domestic Violence Association, stated that her organization was working with the Kentucky Housing Corporation to apply for the low-income tax credits necessary for the funding to build the housing. She said that they should find out if they will receive the tax credits in December. Mr. Drake asked if the 60-day wait requirement would impair that process. Ms. O'Doherty stated that her organization needs, as part of their application for the funding, a letter from the Planning Commission stating that zoning laws do not apply in this case. Mr. King noted that the staff could provide the necessary letter, completely independent of the Com-

mission's action on this Public Facility Review. Mr. Drake asked if the lack of a recommendation from the Commission would impact the process. Mr. King answered that it would prevent the organization from obtaining any permits for 60 days.

Ms. O'Doherty stated that she was concerned that a vote against the project could hurt her organization in gaining support from local public officials, which would be important for the success of the project.

Ms. Plumlee said that the Commission noted that they supported the program, but could not find the request in agreement with the Comprehensive Plan, particularly since they did not hear any neighbors' opinions.

Ms. Beatty asked if the letter could indicate that the Commission supports the program itself. Mr. King answered that the Commission can only speak through its votes. He said that, unless the Commission took a vote to indicate that they support the program, he could not include that in the letter. Mr. King added that either he or the Law Department could provide the letter that the Kentucky Domestic Violence Association is not subject to zoning regulations, which is a fact of the law. Ms. Beatty asked if that letter would suffice for the program's needs. Mr. King responded that he did not know their requirements, so he could not speak as to whether or not just the letter would be sufficient. Ms. O'Doherty explained that her organization would need the letter, as well as a copy of the map that was displayed. She said that those items would be enough to allow the funding application to go forward, but the program also needs support from political leaders, and she was concerned that the Commission's actions have the ability to affect that level of support.

Darlene Thomas, Executive Director, Bluegrass Domestic Violence Program, stated that her organization has made a conscientious effort to respect their property and be good neighbors. She said that the program purposefully started a farm in order to be able to market their own products, teach families how to be self-sufficient, and care for their property, which is very special to them. They deliberately limited the scope of this project in order to maintain the rural character of the property, where their facility has been located for nine years. The primary purpose of the proposed transitional housing is to allow families more time to move from a crisis situation into learning about financial literacy and self-sufficiency. Ms. Thomas stated that the 12 units are proposed to be cottage-style, stick-built structures, which will fit well into the rear of their property. She noted that most of the residents will be there from six months to two years, prior to returning to their communities to support themselves. Ms. Thomas added that the subject property has also been recognized as a national model program.

Mr. Owens said that the Commission is in support of the program, but he and several other members were concerned about taking core agricultural land out of production, and that a precedent might be set.

Motion: A motion was made by Mr. Cravens to adopt the staff's recommendation of approval.

Discussion of Motion: Mr. Wilson stated that, from the standpoint of parliamentary procedure, any new motion must be substantially different from the original motion. He said that the Chair could entertain Mr. Cravens' motion, even though, in his opinion, it was not substantially different from the original motion. Mr. Owens stated that he would accept that motion, and called for a second.

Action: Mr. Cravens' motion was seconded by Mr. Drake.

Discussion of Motion: Ms. Beatty asked if Mr. Cravens would accept an amendment to the motion noting that the proposal is in partial compliance with the Comprehensive Plan. Mr. Cravens stated that he would accept that amendment to the motion. Ms. Rackers suggested that the amendment state that the proposal is not in compliance with the Land Use Element of the Comprehensive Plan, but it is in compliance with several Goals & Objectives. Mr. Cravens and Ms. Beatty stated that they would be agreeable to that statement.

Amendment of Motion: A motion was made by Mr. Cravens and seconded by Mr. Drake to amend Mr. Cravens' original motion. The motion on the amendment failed, 4-4.

Mr. Owens stated that Mr. Cravens' original motion stood.

Action: Mr. Cravens' motion of approval carried, 5-3 (Mundy, Owens, and Plumlee opposed; Blanton, Brewer, and Penn absent).

VII. STAFF ITEMS – No such items were presented.

VIII. AUDIENCE ITEMS – No such items were presented.

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IX. MEETING DATES FOR SEPTEMBER, 2013

Subdivision Committee, Thursday, 8:30 a.m., Planning Division Office (101 East Vine Street).....	September 5, 2013
Zoning Committee, Thursday, 1:30 p.m., Planning Division Office (101 East Vine Street).....	September 5, 2013
Subdivision Items Public Meeting , Thursday, 1:30 p.m., 2 nd Floor Council Chambers.....	September 12, 2013
Work Session, Thursday, 1:30 p.m., 2 nd Floor Council Chambers.....	September 19, 2013
Technical Committee, Wednesday, 8:30 a.m., Planning Division Office (101 East Vine Street).....	September 25, 2013
Zoning Items Public Hearing , Thursday, 1:30 p.m., 2 nd Floor Council Chambers.....	September 26, 2013

X. ADJOURNMENT – There being no further business, Chairman Owens declared the meeting adjourned at 5:36 p.m.

TLW/TM/CT/BJR/BS/src

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